pp. F. IX-4

Previous References

1937. (Legis.)

File No. 2083

Serial No. 1.

Letter References

(83)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. one only.

Part ~~II~~ for March, 1938.

SUBJECT.

Promulgation into Law of the Bill to amend the Hindu Law

81) To The Compiler, Laws.

No. P 463/37 9.2.38.

WD 0295—GPB—22,500—18-8-37

Sir,

I am directed to forward herewith the Act to amend the Hindu Law to be published as Act No. V of 1938 in the Gazette. No.

Dear Sir,

I am herewith enclosing a short note suggesting that the rules of Hindu law regarding the exclusion of certain persons from inheritance should be amended on the lines of a similar enactment in British India. We in Mysore have shown our willingness to alter Hindu law in consonance with the spirit of the times and I submit that it is very unjust to retain such rules which are not based on rational consideration and which have the effect of increasing the burden of those to whom nature has been already cruel.

I therefore request you to place the note before the Dewan Sahib for his kind consideration.

With regards,

Yours Sincerely,

Maraswamy

T. Singarvelu Mudaliar, Esq.,
B.A.,B.L.
Private Secretary to the
Dewan of Mysore.
Bangalore.

DEWAN'S OFFICE
4 JULY 1934
No. 18

Please put up
this may be
referred to Law Secy
K
4-7-34

to exclude from inheritance certain claims of the and laws down that no person governed by the Union Law. Also that a person who is or has been born a lunatic or idiot shall be excluded from inheritance from any right or share in joint family property by reason only of any disease, deformity or physical or mental defect.

The Act came into force in India in September 1928.

Please put up a copy of Indian Act

CE 6/7/34

Hereinafter put up & dealt with (Chap 6 at 287 of Part II of 5th George Gazette 9

Issued No P 3467 of 27.11.35

To

The Registrar, High Court

Forwards the note of
Hon Navasinga Rao and invite
the opinion of the High Court
on his suggestion to introduce
a measure on the lines of
Dom Inds Act XII of 1922

No 17.2, 22:36 of 12

From

The Registrar, High Court

Forwards the Opinion of
the Judges of the High Court
the question of Amending the Law
of Minor Laws on the lines of
Ind Act XII of 1922.

7) The Union Judges have expressed
in favour of the
a measure of the Dominion Act
Judge has no remarks to offer

Sent with reference to Para 6 supra

Done
20/12

8) Please put up a draft Bill

1) Such writs as disappear from writ of attachment of objects & persons. objects Rs. & Act of Bills are put up

In the Bs. Endowments persons governed by Dayabhaga School are excluded from the Act.

This exemption seems to have been made out of deference to Bengali opinion & on the ground that litigation under Dayabhaga law is dependent upon religious efficacy.

It is perhaps not necessary to make such an exemption in the State as even of Dayabagha would be rare & there is not likely to be any hardship of such opinions existing for such exemption

Subm. for orders.

B(4)

Hindu Inheritance (Removal of disabilities) Bill

Serial No.

TYPING SECTION
28 MAR 1936
GENL

10) Mon Gpe stmt of

Ce
26/3/36

11) Copies of draft sent (Views proforma 24 to 27

Ce
1/4/36.

12) under the Hindu Law, certain physical & mental defects are a bar from inheritance. These are Congenital blindness, deafness & dumbness, Congenital want of any limb or organ, lunacy or idiocy, leprosy or ulcerous leprosy, impotency or other incurable disease. In regard to lameness or blindness, it has been held by the Madras High Court that they are no longer sufficient to disqualify a person from inheritance. In British India, Act XII of 1928 [Hindu Inheritance (Removal of disabilities) Act] was passed to remove these disqualifications except Congenital lunacy, idiocy

13) Our High Court was consulted in regard to the desirability of passing similar law here & they consider that it is desirable to remove these disqualifications

14) A draft Bill with a statement of

WTY (H&S)1—GPB—30,000—18-7-35

of Objects & Reasons submitted for consideration

DEWAN'S OFFICE
4 MAY 1936
No. 6778

Council matter

Chief Secretary)

) After approval, this may be ordered to the circulation

Members)
& Dewan)

30/4/36
Asst Secy
Hm
30-4-36

OFFICE OF THE
HON'BLE MEMBER
1 MAY 1936
No. 6051

6757/36

16) There are already
six nos of bills for the Budget session
of the L C & it is not desirable
to overcrowd legn at the budget
session as six days have to be given to budget

17) This matter has been pending
in the Secrett since July 34 & it has is
been sent to the Members for the
first time in May 36. May be
put up in end of July or beg of Augt The
matter is not very urgent

JPM
4/5

MR
4-5-3
Hm
5/5

6757/36

) Submd. with reference to para 17
SG
5-5-36

Secy B.L.C.
1-8-36.
Mr SG.
5.8.36

415 Bill to amend Hindu La
Exclusion from Inheritance (

General and Revenue Secretariat — Legn File No. — of 193 — [App. F. III—2

Serial No.

19) The statement of general principles may be placed before the Assam Session of the R.A & the Bill introduced in the December Session of the L.C.

(Member) 6/8/36

7/8

7/8

For Information

6/8/36

For Disposal by Circulation.

No. C. 129

1936 - 1937

DEWAN'S OFFICE
No. 321 1936

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

OFFICE OF THE
SECOND MEMBER OF COUNCIL.
10 AUG. 1936
NO 996

Subject

Bill to amend the Hindu Law in regard to rules of exclusion from inheritance.

Circulated to the Members of Council.

By Order,

10th August 1936. Offg. Chief Secretary to Government.

First Member of Council. (Seen)

Second Member of Council. 8/10/36.

To) For orders. Further action may be taken and the matter reported to H.H. in the Weekly report.

Dewan) 11/10

Serial No.

(21)
Two copies of this & of the principles be made and given to R. A ~~Secretariat~~ Offr
Secd. for orders

SEC
17/8/36.

(22) 17/9/36

(23) 20 R. A copies with typed copies of the statement of general principles.

SEC
18/8/36

TYPING SECTION
17 AUG 1936
GEN. & REV. SECTT.

(24) 3 Copies taken and file returned.
PBVN.
19.8.36.

(25) Secd. with a note for the weekly report

SEC
20/8
36

(26) Phan typed and Send

(27)
Typed work
SEC
21/8

(28)
Super D. O. W-C
SEC
21/8

Included in the Weekly report going to Ryland

DONE
24/8/36

File No. of 193 General and Revenue Secretariat

30) The R A accepts the principles of the Bills. Send papers to Select for orders if the Bills may be published for introduction into the H. of Reps if it is to be referred to a Select committee.

5 NOV. 1936

(Sec chief secretary) HBJ 5/11

5/11/36

31) may be published and referred to a Select Committee decided at the L.C. meeting.

(Sir members) MWS 6/11

32) There is no question of deciding at there. We have to decide it now WM 6/11

33) Please bring up with a list of pending bills of L.C.

HBJ 7/11

Send. Minute a list of bills HBJ 7/11 F.C. Gy

7/11 (chief secretary) HBJ 9-11

35) Please speak Bill

10 NOV. 1936

In view of the fact that there will be no Session meeting in March 1937, this bill may be put off for consideration till the new L.C. meets. MWS 11/11

(Sir members) 36) This may be published & passed at one sitting HBJ 17/11 MWS 17/11 WM 17-11

Govt Printer 3743 11 Nov

17 NOV

3 15/-

Minutes Laws

133 | K L

General and Revenue Secretariat	File No.	of 193	[App. F. III—2

Serial No.

37) To typing section for making 8 copies of the Bill & the Statement of objects & reasons

See 18/11/36

TYPING SECTION. 18. NOV. 1936 GENL & H. SECTT.

38) To L.C. office with 3 copies of the Bill & SR of objects & reasons

See 26/11

OFFICE OF THE SECRETARY 27 NOV. 1936 REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL.

39) Three copies taken and the file put to Prot. Br. (W.C.)

27/11/36

L.C. Secs.

40) The Bill was laid before the Council for consideration in June 37.

See 29/1

Secs. 13 1-5-37

41) It does not seem to be necessary to publish the Bill again ~~as opposed to the Council~~. The Bill was read in Council at the last Sess. But at the time of the

See 28/5/37

Vide Prop. 5 & 6 37 Notes

NOTE—Contn. Sheet.

WD 0417—GPB—80,000—8-9-36

Serial No.

for consideration without being referred to Select Committee. Some members desired that the Bill should be referred to a Select Committee. It was then agreed that the consideration of the Bill might be postponed.

The L. C. Office may be consulted as to the procedure to be adopted in regard to the consideration of the Bills at the June Session of the Council. for orders.

Sd/- 29/8/37

(42) There are no precedents of such Bills — where the motion that the Bill be read in Council was adopted, and at the subsequent stage the consideration was postponed. ~~exceptions~~ Under S.O. No. 42, the Bill has been withdrawn with the permission of the Council. So it seems necessary for the Bill being read again in the Council & the reconsideration

Sd/- 31/3/37

(43) Necessary discussion

(44) Extract of discussion is put up.

File No. D613/ of 193 . | General and Revenue Secretariat

1) 3 copies of the Bill to amend the Madras Land Revenue together with the St. of objects & Reasons are forwarded herewith may be sent to L.C. Office for publication under rule 8. [illegible] C.L.

BG
5/4/37

Note Three copies of the Bill taken and the file put up.

Prof.

L. C Gaz

2) [illegible] 6.4.37

The Bill has been published with a view to be introduced in the ensuing Session of the L.C and referred to a Select Committee if considered necessary.

The following motions are suggested for orders

(a) motion that the Bill be read in Council

Mover - 1st Minister

Seconder - Govt Secy

(b) motion that the Bill be referred to a Select Committee

Mover 1st Minister

Seconder - Govt Secy.

for orders.

may be referred to the Select

1st Minister [illegible]

Serial No.

45) At the last session of the Legislative Council, permission to read the Bill in Council was obtained. After this, a motion was made to suspend the Rules of Business and Standing Orders and to take the Bill int consideration without reference to a Select Committee Objection was taken to this motion. At this stage, the First Member of Council was pleased to state that Government had no objection to put off the considera-tion of this measure by the new Council. The Bill was thereupon withdrawn under Standing Order No. 42. This withdrawal renders this Bill practically a fresh one, and hence it has to undergo all the formalities prescribed in Rule 8. The Bill has to be published in the Gazette and copies sent to the members.

46) As regards the procedure in vogue in the Britis Indian Legislatures, on the dissolution of a Council every Bill which has been introduced in the Council and has not been passed by the Council shall lapse (Madras Rule 21 / age 33); and

47) on the dissolution of either Chamber, all Bills which have been introduced in the Chamber which has been dissolved or have been laid on the table in that Chamber under Rule 25 and which have not been passed by the Indian Legislature, shall lapse (Indian Legis-lative Assembly Rule 36-C, page 35).

48) permission may therefore be given to Rapporteur this Bill under Rule 8 of Rule / Business / for members & Dewan

JPR 3/4

50) JPR 4-4-37 MMS 5/4 hm 5/4

L.C. — re Lower Bill

I Revenue Secretariat	File No.	of 19	[App. F. III—2

Serial No.

54) A typed note has been submitted for kind perusal in connection with the motion for circulating the bill. This is a copy of the note previously approved by the member.

The names of the members of the select committee may are suggested for consideration.

1) Hon'ble member
2) Mr. Venkatasiengar.
3) Mr. Mirle Laxminarayanappa
4) Mr. D.V. Gundappa
5) Mr. D.V. Gundappa
6) Mr. K.R. Srinivasiengar
7) Mr. D.H. Chandrasekhariah
8) Mr. Nagappa Setty

(8 members)

kg
22.6.

55 may be sent to L.C. (Reporting section) for kindly noting down the names of members of the Select Committee to which the Bill was referred

kg
6/7

56) 6/7 L.C.) The names are noted below:—

1. Mr. M. Venkatesa Iyengar,
2. " Mirle Lakshminarayanappa,
3. " D.V. Gundappa,
4. " K.R. Srinivasiengar,
5. " D.H. Chandrasekhariah,
6. " M.L. Nagappa Setty, and
7. The Mover (Hon'ble Member in charge of the Bill).

Proforma!

RECEIVED IN THE GOVT. OFFICE OF THE SECRETARIAT
23 JUNE 1937
P.A.

WD 0417—GPB—30,000—8-9-36

16 Hindu Law Bill

File No. of 193 General and Rev Secretariat

Serial No.

DEWAN 12 No....

57) Submd. for orders as to the date of the meeting of the Select Committee

58) Submd. for orders as to date of S-C meeting

59) A convenient date has to be fixed for the Select Committee meeting. Dasara commences from the 5th October 1937. The R.A. Session commences on the 16th October and may end on or about the 24th October

(Sr. member) 10-8

The member was pleased to order that Some date may be fixed for this early in November.

Saturday the 6th November may be fixed for this (1 pm)

(Jr. member) 12-8

60) This may be put up later on

13/8 14/8

14

Hindu Laws Bill.

General and Revenue Secretariat | File No. | of 193 . D105/RoL | [App. F. III-2

Serial No.

62) Read minutes as to the date the meeting of the Select Committee on the Bill.

63) The member was pleased to direct that Saturday the 4th December may be fixed for the meeting of the Select Committee.

It will be fixed at 2 p.m. that day

(1st member) hg 6/11

64) Jpr. 6/11 MS 6/11

hg 8.11.

65) Send with a draft notice of the meeting... dispd hg 22.11

See 22/11

Issued P 2671-6 & 23/11

66) The S.C. reports to be signed by all the members who attended.

67) Send. for orders if it may be published.

See 6/12 publish hg 6.12

68) Do S.C. copies with copies of the Report

See 6/12 Three copies taken & file put-up Prot. B.

8/12/37 8/8.12

Typing Section for 3 copies of the report with the signatures of the members

See 6/12

Contn. Sheet.

OFFICE OF THE SECRETARY
REPRESENTATIVE ASSEMBLY AND LATIVE COUNCIL.

OFFICE OF THE FIRST MEMBER OF COUNCIL
NOV 6 1937
No. 2274

TYPING SECTION
GEHL & RAU CALCUTTA
19

18 Finance Land Bill

File No. D105/KL of 193

General and Revenue Secretariat

Serial No.

69) Subd. with a copy of the Bill as amended by the Select Committee

It is apprehended it will be sent to L.C before/for getting copies printed.

Yes hp 9.12

9/12

L.C Office)

Sec

Copy taken and file putd to Prot: Br.)

10.12.37 10.12

70) The Bill was passed by the L.C at its recent sessions.

Subd. with a A.P.N for sanction to promulgate the Bill into laws.

Sec 27/1/38. (Hr members Hrs Gen Secs)

hp 28.1

Gen 28/1/38

71) JPL 29/1

hp 28.1

OFFICE OF THE SECRETARY
9 DEC 1937
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

L.C Secs

GENERAL SECRETARY
28 JAN. 1938
4253

OFFICE OF THE
FIRST MEMBER
JAN 29 1938
No. 4841

Final Note by the First Member of Council.

Subject.—

Promulgation into Law of the Bill to amend the Hindu Law.

72) The proposal to amend the Hindu Law modifying the rule of exclusion of certain classes of heirs from inheritance was submitted to His Highness in the weekly reports sent in August 1936. The Bill was first introduced in the Legislative Council in January 1937. As that session was the last in the term of the Council then sitting, the consideration of the Bill was, at the wish of some members of the Legislative Council, postponed. The Bill was re-introduced in June 1937. After consideration by a Select Committee, the Bill as amended by it was considered and passed by the Legislative Council at its recent session.

73) I solicit the gracious sanction of His Highness for promulgating the Bill into Law.

Bangalore,
31st January 1938.

FIRST MEMBER OF COUNCIL.

Submitted to His Highness.

74 *I submit herewith a Final Note by the* First *Member of Council on the subject of* promulgation into Law of the Bill to amend the Hindu Law *for His Highness' gracious* ~~approval~~ sanction.

Mirza M. Ism
Dewan.

Bangalore,
31st January 1938.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation into Law of the Bill to amend the Hindu Law.

Order.

75) KRW
3/2/38

General and Revenue
Secretariat.

H. H. 4691

SUBJECT :—

Promulgation into Law of the Bill to amend the Hindu Law.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

76) Circulated to Members of Council for perusal of His Highness'* orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,
General Department. 4/2

77)

5070
4-2-38

FIRST MEMBER OF COUNCIL.

78)

5070
5-2-38

SECOND MEMBER OF COUNCIL.

Secy to Govt, Gen dept 6/2/38
with Compliments

7.2.38

7/2

WD 1170—GPB—1,000—24-12-36

Serial No.

79) Subs. mit a draft order for publication of the Act

Sec 8/2/38 Gen Secy)

GENERAL SECRETARY 8 FEB. 1938

TYPING SECTION GENL & REV. SECT.

2) Issue by 9.2

by 8.2

R. O No P 4631 Dy 9/2/38 ordering the publication of Act V of 1938

~~Draft~~ Bill to amend Hindu Law.

Whereas it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs and to remove certain defects; it is hereby enacted as follows: -

1. (1) This Regulation may be called the Hindu Inheritance (Removal of disabilities) Regulation, 193

(2) It extends to the whole of Mysore.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason ~~duly~~ only of disease, deformity, or physical or mental defect.

3. Nothing herein contained shall affect any right which has accrued or any laibility which has been incurred before the commencement of this Regulation, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Regulation had not been passed.

Statement of Objects and Reasons.

The Hindu Law as at present administered contains provisions excluding from inheritance certain classes of heirs suffering from ~~congruital~~ congenital, physical or mental defects. This rule of exclusion is ~~passed~~ based on ancient texts and was based probably on the ground that the defects incapacitated the persons from having religious efficacy. Society has advanced and whatever might have been the reason for the original rule of exclusion, it has lost its force in these modern days of enlightened ideas and has become obsolete. It is therefore considered that it is time that the rule is modified by legislation.

~~Congruital~~ Congenital lunacy or idiocy stand on a different footing. The persons suffering therefrom will be unable to manage the property. The disqualification for inheritance will therefore be kept up in this ~~ax~~ case.

It is not however proposed to affect rights accrued or liability incurred before the commencement of the Regulation, nor any rule regarding the management of any religious or charitable trust.

The rule has been modified in British India by Act XII of 1928 and it is proposed to introduce legislation here on similar lines.

Statement of General principles of

e Bills to amend the Hindu law in regard to rules of exclusion from inheritance.

The Hindu Law as at present administered contains provisions excluding from inheritance certain classes of heirs sufferin from congenital physical or mental defects This rule of exclusion is based on ancient texts. Whatever might have been the reaso for the original rule of exclusions it is considered that it is time that the rule i modified by legislation so that no person other than a person who is from birth a lunatic or idiot will be excluded from inheritance by reason only of disease, deformity or physical or mental defect.

Congenital lunacy or idiocy stands on a different footing. The persons suffering therefrom will be unable to manage the property. The disqualification for inheritance will therefore be kept up in their case.

It is not however proposed to affect rights accrued or liability incurred before the commencement of the Regulation, nor any rule regarding the management of any religious or charitable trust.

The rule has been modified in British India by Act XII of 1928 and it is

is proposed to introduce legislation on the above lines.

I. General Principles of the Bill to amend the Hindu Law in regard to Rules of Exclusion from Inheritance.

The Hindu Law, as at present administered, contains provisions excluding from inheritance certain classes of heirs suffering from congenital physical or mental defects. This rule of exclusion is based on ancient texts. Whatever might have been the reason for the original rule of exclusions, it is considered that it is time that the rule is modified by legislation so that no person other than a person who is from birth a lunatic or idiot will be excluded from inheritance by reason only of disease, deformity or physical or mental defect.

Congenital lunacy or idiocy stands on a different footing. The persons suffering therefrom will be unable to manage the property. The disqualification for inheritance will therefore be kept up in their case.

It is not, however, proposed to affect rights accrued or liability incurred before the commencement of the Regulation, nor any rule regarding the management of any religious or charitable trust.

The rule has been modified in British India by Act XII of 1928 and it is proposed to introduce legislation on the above lines.

REPRESENTATIVE ASSEMBLY PROCEEDINGS

DASARA SESSION—October and November, 1936.

DISCUSSIONS ON—	PAGE.
I. General Principles of the Bill to amend the Hindu Law in regard to Rules of Exclusion from Inheritance ..	2
V. General Principles of the Bill for the Regulation of Wireless Telegraphy in Mysore	7
VI. General Principles of the Bill further to amend the Mysore Village Panchayet Regulation	8

GOVERNMENT BUSINESS—BILLS.

I. General Principles of the Bill to amend the Hindu Law in regard to Rules of Exclusion from Inheritance.

The GENERAL SECRETARY to GOVERNMENT (Mr. M. Venkatesa Iyengar) explained the general principles of the Bill as follows:—

The Hindu Law, as at present administered, contains provisions excluding from inheritance certain classes of heirs suffering from congenital physical or mental defects. This rule of exclusion is based on ancient texts. Whatever might have been the reason for the original rule of exclusions, it is considered that it is time that the rule is modified by legislation so that no person other than a person who is from birth a lunatic or idiot will be excluded from inheritance by reason only of disease, deformity or physical or mental defect.

Congenital lunacy or idiocy stands on a different footing. The persons suffering therefrom will be unable to manage the property. The disqualification for inheritance will therefore be kept up in their case.

It is not, however, proposed to affect rights accrued or liability incurred before the commencement of the Regulation, nor any rule regarding the management of any religious or charitable trust.

The rule has been modified in British India by Act XII of 1928 and it is proposed to introduce legislation on the above lines.

Mr. C. N. NARASINGA RAO said that the reason why the disqualification had been put in the original text of the Hindu Law in respect of heirs suffering from congenital physical or mental defects was not far to seek. It consisted in the fact that the heir who was defective either mentally or physically could not have the capacity to manage as trustee the property that he might inherit from the joint family. That was why not merely born lunatics or idiots but even those who were born blind and maim were disqualified from the right of inheritance. But the amending bill before the House sought to remove the disqualification in the case of all heirs excepting those suffering from congenital lunacy or idiocy. While agreeing with the change proposed so far as physical disabilities were concerned, he would point out that so far as the question of succession to property went, it would arise only after the death of the previous holder or manager. As such, if an heir should develop mental defects at the opening of his succession to property, the speaker would extend the disqualification to every such case on the principle that the inheritor would have no capacity to manage the property and would become a tool in the hands of others and eventually run the risk of losing the property altogether to the detriment of himself as well as the joint family. He would therefore extend the existing rule of exclusion from inheritance to the heirs who might have acquired lunacy or idiocy at the opening of succession. Because, logically speaking, so far as the capacity to manage the property went, it did not make any difference so long as the defect existed at the opening of succession, whether congenital or acquired. Subject to this modification, he supported the bill.

Mr. T. MADIAH GOWDA gave his unqualified support to the bill. He said it was undoubtedly a beneficent piece of legislation which was long overdue in the State. It had been brought into force in British India eight years ago, on the recommendations made by several High Courts. Even in Mysore, the members of the Assembly and the Council had been urging for its introduction for some years past. In the circumstances, it deserved to be passed into law without further delay.

He pointed out that the original rule of exclusions in the Hindu Law might have suited the old frame of mind, but it did not appeal to modern notions of justice and equity. Hence, on pure humanitarian considerations, the law should be amended as proposed in the bill. He said that the exclusion of congenital lunatics and idiots from the operation of this measure was quite reasonable. But this measure should

not be made the thin end of the wedge to introduce radical changes such as removing disabilities imposed by Hindu Law on converts, etc.

Mr. K. T. BHASHYAM AIYANGAR said that the bill before the House was a generous measure. It appeared to him that when the original rule of exclusion was framed in ancient times, there might have been no reign of peace in the country and it might be that only those persons who had a sound mind and a sound body were believed to possess the capacity to manage the property and were given the right of inheritance and persons with mental and physical defects were excluded from inheritance. The conditions of society had changed since then and there was no need to connect the defence of the country or society with rights of inheritance. Secondly, the responsibility of maintaining such defectives had rested on the shoulders of the other members of the family who inherited the property, and they were scrupulously discharging that obligation. Hence it had not worked as a great hardship then. But unfortunately, the mentality of people had undergone a change with the advance of time and the excluded heirs had come to be neglected. As such, the continuance of the old system had resulted in real hardship to the unlucky members of the family. For these two reasons, he had no hesitation in commending the bill for the acceptance of the House.

As regards Mr. Narasinga Rao's suggestion that the rule of exclusion should be extended also to heirs who might be suffering from lunacy at the opening of succession, he said that it would work as a great hardship to families if that was accepted. He therefore opposed it. On the other hand, he would suggest that in course of time, the law on the subject should be still further liberalised and the existing rule of exclusion should be relaxed in favour of congenital lunacy or idiocy also. He pointed out that the difficulty about the management of property referred to by the previous speakers could be got over by appointing a ward or guardian for the purpose.

In conclusion, he said that on humanitarian grounds, it would be best to remove all bar against succession of heirs to joint family properties.

Mr. S. K. VENKATARANGA IYENGAR who spoke next, expressed surprise that Mysore should have taken such a long time to amend a law which had become an anachronism. He said that while other parts of India had removed the defects in the law of succession, it was not right for Mysore to lag behind.

Modern Germany, under its dictatorship, had passed a legislation for sterilising all persons with physical defects so that the progeny of such persons might not inherit the same defects. Though such a move might be justified on scientific grounds, he said that its adoption here would offend against the Indian sentiment, as Indians were staunch believers in the law of Karma and were opposed to penalising any person on the doubtful value of scientific theory.

Mr. VENKATARANGA IYENGAR did not agree with Mr. Narasinga Rao that the disability should extend to persons who might have become lunatics or idiots at the time the succession opened. He said that Mysore was in advance of British India in the matter of Hindu Law reform and personally felt that in consonance with enlightened humanitarian ideas, the law should be made more liberal than what was contemplated in the bill. In this view he suggested that the disqualification proposed to be retained in the case of congenital lunatics or idiots also be removed. As regards the difficulty about the management of the property, he said that the wife or some other member of the family might have the requisite capacity to manage it. If necessary, courts might be given the power to appoint guardians as in the case of minors to manage the properties of such persons. Suitable amendments might be introduced to that end in the Guardianship and Wards Regulation or a special Court of Wards Regulation be enacted for the purpose.

He did not see any reason why the Mysore legislature should go only to the extent to which the British Indian

Act had gone and stop at that limit mechanically. On the other hand he very much wished the State to go a step further and remove the disqualifications in the matter of inheritance by congenital lunatics and idiots also.

Mr. M. A. GOPALASWAMI IYENGAR said that there was no doubt that the bill was in consonance with modern notions of justice and equity and tried to modify the rule of exclusion from inheritance under the Hindu Law. Some of the previous speakers had urged that the bill should also be made applicable to congenital lunatics and idiots. The Hindu Law of Inheritance comprised the law of survivorship as well as the law of succession. So far as the law of succession was concerned, there would not be much difficulty if lunatics and idiots were also given the right of inheritance. As regards the law of survivorship, there would be practical difficulties if mentally disabled persons were given the right of inheritance. Unlike the other classes of excluded persons, they would have no contractual capacity and could not deal with property except through a committee or guardian. If the rule of exclusion was abrogated, they would under the Hindu Law become coparceners having a right by birth in the property of the joint family as well as a right to claim partition. As they would be unable to exercise those rights except through a committee or guardian, the integrity of the joint family might be endangered by the appointment of strangers as committees or guardians. In view of those practical difficulties, the rule of exclusion so far as lunatics and idiots were concerned, was not amended in British India. The speaker therefore thought it necessary that Government should examine all those difficulties before trying to bring congenital lunacy or idiocy within the purview of the bill.

Mr. Belur SRINIVASIENGAR, while admitting that the bill was a beneficent measure, felt that it did not go far enough.

Mr. PRESIDENT pointed out that it was safer to proceed step by step.

Mr. Belur SRINIVASIENGAR thought that in simple matters, instead of going step by step, there was no harm in covering two steps at a time.

He said that at the time of amending the Hindu Law as to the rights of women, Government had shown a certain amount of liberal-mindedness But the same liberality was not in evidence in the case of the measure before the House. The bill under reference sought to retain the rule of exclusion in respect of congenital lunacy and idiocy He was of opinion that even that disqualification should be removed as it would not be just and equitable to make an invidious distinction as between heir in one and the same family.

If the present rule of exclusion was retained and born lunatics or idiots were debarred from inheritance, a difficulty might arise if perchance an excluded person should regain his sense in course of time. There would be no property for him to inherit then and he would become destitute and helpless. Such a contingency also could be provided for by the total removal of the disqualification.

As regards the management of properties inherited by such persons, the speaker did not think that there were insuperable difficulties They could be got over by the application of the Guardians and Wards Regulation.

With these remarks, he supported the general principles of the bill.

Rao Sahib M. RAMASWAMY was of opinion that the measure would be of no benefit to the society. As a result of the existing system of division of joint family properties, even big estates were getting parcelled out into small bits. And to make matters worse, as a result of the proposed amendment, the rule of exclusion against certain classes of heirs with physical and mental defects would be removed and even heirs who had no capacity to manage the property would get a share. Naturally such properties would have to be entrusted to third parties for management and in almost all cases the property would be mismanaged and lost. Thereby both the individual as well as the joint family would be deprived of that share of the property. So, in the higher interests of the joint family property, the speaker thought it was

desirable to retain the existing rule of exclusion intact, in respect of all those who had no capacity to manage the property by themselves. This would at least ensure the defectives being cared for and maintained by the other members of the family. For these reasons, he thought that the question of amending the existing law had to be undertaken with great caution. He therefore opposed the bill.

Mr. PUTTARAMA SETTY said that those who opposed the bill did not take into consideration the cases of the unfortunate children of a Hindu joint family who might have physical defects or deformities. It was the duty of the legislature to see that provision was made to ensure the proper care and maintenance of all those children. As matters stood, they did not possess the wherewithal even to claim their share of the property with the aid of courts. At best they could sue the other members *informa pauperis*. For these reasons he strongly supported the bill.

Mr. T. MARIYAPPA thanked the Government for having brought in the amending bill though belated. He felt that it was not sufficient to limit the scope of the bill to the level of the British Indian Act but that its provisions should be extended so as to include even congenital lunatics ~~or~~ idiots as well, and suggested the incorporation of two salutary provisions for the purpose of safeguarding the property inherited by that class of heirs, *viz.*, (1) declaration of the natural guardian of the defective heirs or the appointment by the court of a guardian in the absence of a natural guardian, as at present the Guardians and Wards Regulation did not apply to them if they were not minors; and (2) the guardians should not however be given unfettered discretion, but their powers of management should be limited by the application of Hindu Law or by the application of the Guardians and Wards Regulation, as in the case of minors.

At this stage, the Assembly rose for lunch and met again at 3-30 p.m.

Mr. L. VEMA REDDY, in supporting the measure, said that whatever might have been the reasons in the past for excluding from inheritance certain classes of heirs suffering from congenital, physical or mental defects, the law deserved to be modified as it did not suit modern conditions. The social out-look at the present day was altogether different from what it was in the past. The joint family system was fast crumbling down, and every member of the joint family was particular about getting his or her share of the property and living independently. "Every man for himself," had become the order of the day. Under such a state of affairs, it would be too much to expect ~~such~~ people to treat their unfortunate brothers, who were suffering from physical or mental defects, with the affection and consideration due to them. The plight of those people was that they were not being cared for by their own blood relations; they had no right for any share in the family property, and they were not in a position to earn their bread by any kind of service. The speaker asked as to what should become of persons placed under such circumstances. He emphasized that it was the duty of the Government to safeguard the rights of these people by removing the existing disqualification in their case in the matter of inheritance.

Continuing, **Mr. VEMA REDDY** said that one of the reasons urged against the removal of the existing disqualification was that a person suffering from a mental or a physical defect would not be in a position to manage his share of the property and there was every chance of its being lost to the family. That difficulty could be overcome by appointing a suitable guardian as in the case of minors to look after the property as long as the person was alive and then it might be disposed of to the best advantage of the joint family.

The speaker did not believe that the progeny of persons suffering from physical defects would necessarily inherit similar defects. He had known of instances in which the children born of parents suffering from such defects were sound both in mind and body. If the existing disqualification was not

lifted, such children would be deprived of their share of the property for no fault of theirs.

Referring to the suggestion made by Mr. Belur Srinivasiengar and others that Government should have gone a step further and removed the disqualification in the case of congenital lunatics and idiots also, **Mr. VEMA REDDY** said that in matters pertaining to social legislation, it was desirable to proceed cautiously feeling the ground at every step. In this view he thought that the measure before the House was quite sound. If at a later stage it was considered necessary to extend the rights of inheritance to congenital lunatics and idiots also, nothing would prevent the Government from doing so by further amending the law.

With these observations he wholeheartedly supported the measure.

Mr. Bagamane DEVA GOWDA, speaking next, said that there should have existed sufficient grounds in British India for retaining the disqualification in respect of congenital lunatics and idiots to inherit property, and it was therefore not advisable for the State to go farther than what British India had done, at least for the time being. If, however, it was considered necessary at a later stage to remove the disqualification even in the case of born idiots and lunatics, nothing precluded the Government from amending the law further. With these observations, he supported the measure.

Sri. K. D. RUKMINIAMMA, in further supporting the measure, expressed her gratitude to Government for having amended the Hindu Law in the matter of women's rights to inheritance. The measure before the House, she said, was another beneficent measure in that it sought to remove the disqualification for inheritance in the case of persons suffering from certain physical defects. This should have been done even at the time of amending the Hindu Law in respect of women's rights, and as such, the measure had not come a day too soon. As regards the details of the bill, she said that the disqualification in the case of congenital lunatics and idiots also should be removed.

Mr. H. M. CHANNABASAPPA also supported the measure and said that even congenital lunatics and idiots might be given inheritance rights and provision made for the proper maintenance of their properties by appointment of guardians as in the case of the management of properties of minors. For this purpose, he suggested that the provisions of the Wards and Guardians Regulation might be extended to this class of persons also.

Mr. MUNIVENKATAPPA, in endorsing the above view, said that no alienation of property should be permitted during the life-time of the person.

Mr. P. SUBBARAMA CHETTY said that he had known of cases wherein lunatics had, after marriage, ceased to be as such and lived happily and had even intelligent children. The converse of it was also probable as idiots had been born of very intelligent parents. Denial therefore of the right to inherit property to such people on the ground of lunacy or idiocy, would result in penalising them and their children. For this reason, he suggested that the State might go ahead of British India and remove the disqualification in the case of congenital lunatics and idiots also. With these remarks he supported the measure.

Mr. K. CHENGALARAYA REDDY, while sympathising with the members who said that even born idiots and lunatics should be given the right to inherit property, pointed out that there were some practical difficulties in the way of the proper management of their properties under the law as it stood at present. There was provision for the management of the property of a minor who was born blind But the speaker was doubtful if there was any such provision for the management of the property after the minor attained majority. He felt that there must be provision for a suitable agency to manage the property even after the person attained the majority. If it could be provided for in the case of the blind, he saw no reason why the disqualification in the case of born lunatics and idiots should not be removed and the same procedure adopted in respect of the management

of their properties. With these observations, he supported the measure.

Mr. K. SRINIVASIAH said that in almost all cases wherein the management of property had been entrusted to guardians, misappropriation had become a common feature and the family had invariably lost the property. For this reason he suggested that, as in the Mahomedan Law, the right of pre-emption be provided for as a safeguard in such cases where the family property, owing to mismanagement as aforesiated, was likely to be lost to the family. With this qualification, he supported the bill.

Shroff RANGASWAMY CHETTY also supported the general principles of the measure.

Replying on behalf of the Government, **the FIRST MEMBER of COUNCIL (Rajamantrapravina S. P. Rajagopalachari)** observed that while many of the speakers had supported the measure, some had made certain suggestions in addition. He assured the members that their suggestions would be duly considered. It was not the intention of Government, he said, to retain for all time the disqualification for inheritance in the case of persons suffering from congenital lunacy or idiocy. But, as pointed out by Mr. Chengalaraya Reddy, there were some practical difficulties in the way of extending inheritance rights to such persons at present. That was the very reason why the disqualification in their case was kept up. It was no doubt easy to give rights of inheritance to them also. But how best the properties inherited should be managed without detriment to their interests had to be considered. For the present, however, it was sufficient to amend the Hindu Law on the lines of the British Indian Act. Government would not hesitate to take a step forward and remove the disqualification in respect of congenital idiots and lunatics also after careful consideration of all the practical difficulties involved in the working of the proposed law. With these observations, he hoped that the House would support the measure.

The general principles of the bill were thereupon put to vote and adopted.

V General Principles of the Bill for the Regulation of Wireless Telegraphy in Mysore.

The SECRETARY to GOVERNMENT, DEVELOPMENT DEPARTMENT (Mr. M. Venkatanaranappa) explained the general principles of the Bill as follows:—

The Indian Telegraph Act of 1885 has been made applicable to the State by the Mysore Telegraph Regulation IV of 1899. The British Indian Act has since been amended in 1914 and the amending Act brought wireless apparatus and wireless appliances within the scope of the Telegraph Act. The establishment, maintenance or working of wireless telegraph apparatus are controlled, under the Act, by the issue of licences, and penalties are prescribed for contravening the provisions of the Act. Subsequently, the Indian Wireless Telegraph Act of 1933 was passed which requires a licence even for the possession of wireless appliances as distinct from establishment, maintenance and working.

The British Indian Acts of 1914 and 1933 have not been adopted in Mysore, and consequently there is, at present, no statutory bar to the operation or possession of wireless apparatus here. Broadcast receiver licences are being issued by the Director of Industries and Commerce under the authority of a Government Order on the same lines as in British India, on payment of an annual fee of Rs. 10 per licence; but the Director has brought to notice that in the absence of specific provision in the existing law in Mysore for enforcing licences being taken out for putting up wireless installations and maintaining them, no action could be taken against persons who have either not taken out licences or having once done so, have not renewed them. It is therefore considered desirable to introduce legislation to regulate the possession, establishment and working of wireless apparatus in the State. A bill has accordingly been drafted. It combines the provisions of the Indian Telegraph Amending Act of 1914 and the Indian Wireless Telegraphy Act of 1933 so far as they relate to Wireless Telegraphy.

The bill provides for taking out a licence for operation of broadcasting and receiving sets and for possession of wireless appliances, and the establishment or possession without licence is made punishable. Provision is made for granting, out of the fine inflicted, any sum for the benefit of any broadcasting service as a contribution towards the cost of its maintenance in return for the benefit derived from it.

The general principles were accepted by the House nem con.

VI. General Principles of the Bill further to amend the Mysore Village Panchayet Regulation.

The SECRETARY to GOVERNMENT, DEVELOPMENT DEPARTMENT (Mr. M. Venkatanaranappa) explained the general principles of the Bill as follows:—

Under Section 3 (10) of the Village Panchayet Regulation, the term "village" is defined to mean a local area recognised by the Government to be a village for purpose of collecting the land revenue. A revenue village comprises not only the residential areas of the village and its hamlets but all the agricultural and communal lands within its boundaries. Such a unit is not always found to be the most convenient for purposes of panchayet administration. It may sometimes be necessary to constitute portions of one or more revenue villages into a panchayet area. Such an arrangement would be suitable, for instance, in cases where industrial colonies have sprung up in the neighbourhood of factories, such as the Mandya Sugar Factory and the Bhadravati Iron and Steel Works. It is, therefore, proposed to add a section to the Village Panchayet Regulation on the lines of Section 102 of the District Boards' Regulation so as to enable the Government to exclude any particular area in a village from the operation of the provisions of the Village Panchayet Regulation and placing such excluded area under the jurisdiction of a special panchayet with specified powers.

The Mysore Village Panchayet Regulation is proposed to be amended accordingly.

Mr. V. V. IYER brought to notice that prior to the springing up of industrial concerns in rural areas, the villagers were enjoying good enough sanitation given by nature. But after the development of the area into an industrial centre, the sanitation of the area was affected prejudicially owing to the increase in population. Apart from that handicap, the higher wages paid by the industrial concerns began to attract the raiyats and that resulted in prejudicing the agricultural operations in the area. Thus the starting of industrial concerns in rural areas was responsible for affecting the even tenor of village life. The bill sought to separate the survey numbers of a village or villages comprised in the industrial colony from the jurisdiction of the existing village panchayet and constituting them into a special panchayet. Thus while the people in the newly constituted panchayet would be enjoying all the civic amenities specially created therein, those in the other part of the same village would have to forgo all those amenities. With a view to remove such a disability, he suggested that the entire village might be taken within the jurisdiction of the special panchayet of the industrial colony, especially as the latter owed a duty to the villagers to make amends for having brought about a change in rural economy in that area.

Mr. T. MADIAH GOWDA pointed out that so far as he was aware there were only two industrial centres worth the name in the mofussil, *viz.*, the Bhadravati Iron Works and the Mandya Sugar Factory. That being so, he did not know how this question would affect the Village Panchayet Regulation. If at all, it might affect the Municipal Regulation. If, however, it did affect the Village Panchayet Regulation, he thought it would not be equitable to constitute a special panchayet for the exclusive benefit of the colony and thus deprive the other portions of the existing panchayet area of the benefits of the civic amenities created in the

colony. He was very keen that equal facility should be created to all the people in the locality to march alongside of the colonists in civic matters, and on that ground he opposed the bill as it aimed at splitting up the existing jurisdiction.

Mr. Bagamane DEVA GOWDA pointed out that the position of the industrial colonies was similar to that of the coffee plantations. When the planting area was proposed to be brought under the jurisdiction of the neighbouring village panchayet, the European planters agreed to pay the taxes under the Regulation but stipulated that the panchayet concerned should not interfere in plantation matters. He therefore thought that, apart from the question of jurisdiction, the industrial colonists ought to agree to pay the taxes due to the existing village panchayets in view of the fact that the village panchayet movement was in its infancy and its resources deserved to be augmented in every possible way. In case, however, it was proposed to exempt the colonists from payment of the village panchayet taxes, he was afraid that a similar concession would have to be shown to the coffee planters as well.

The SECOND MEMBER (Rajamantrapravina N. Madhava Rau) observed that there was apparently some misconception regarding the object of the measure. The present position was that all areas outside the municipal limits were included in the jurisdiction of village panchayets. It was possible that industrial colonies established in connection with factories might include areas under the jurisdiction of several village panchayets and perhaps of a municipality as well. The position of such a colony would be anomalous if the local affairs of different portions of it were under different local bodies. Such an arrangement would be administratively very inconvenient. It was desirable that the affairs of such a colony should be administered by a single local authority. The accident of the area being technically included in different panchayet areas should not come in the way of this obviously desirable measure being secured.

Referring to objections raised by Mr. V. V. Iyer, **Mr. N. MADHAVA RAU** observed that it was not the intention of Government to keep industrial colonies separate from the residential portions of a village if the two formed a compact area. But where the colony was separate and distant from the residential area of a village, it would be inappropriate to bring them together under one or more panchayets. It was the object of the bill to ensure that the arrangements for the administration of local affairs were adapted to the needs and requirements of the village proper on the one hand and the industrial settlement on the other.

Mr. S. C. MALLIAH suggested that if the idea was to enable the Government to take power to introduce a special legislation for the purpose of administering those particular areas, and if it was also the intension of the Government not to neglect the remaining portion of the village, the entire village might be taken over within the jurisdiction of the special panchayet.

Mr. N. MADHAVA RAU explained that the arrangement did not preclude a village or villages being included in the industrial colony, if it was to the advantage of both to be placed under a common administration. The cases that were in view, however, were those in which an industrial colony was situated within the boundaries of two or three villages while it was fairly distant from the *gartana* of each such village.

Mr. L. VEMA REDDY, in strongly supporting the bill, said that it would not affect the existing rights of village panchayets in any way. He had no doubt that the villages surrounding the industrial colony had everything to gain by way of civic amenities and nothing to lose. Under the Municipal Regulation, the Government had power to fix the municipal boundary and to change it from time to time. He thought that they could exercise similar powers in the case of village panchayets also.

Rao Sahib M. RAMASWAMY, speaking in support of the bill, said that when such industrial colonies were formed in rural areas the villagers in the

neighbourhood could share in all the civic amenities, such as, water-supply, medical aid, sanitation, lighting, schools, etc., and that at concession rates. The colonists were certainly not going to obstruct them from enjoying those amenities.

The general principles of the bill were then put to vote and passed.

REPORT OF THE SELECT COMMITTEE ON

THE BILL TO AMEND THE HINDU LAW:

We, the undersigned members of the Select Committee to which the Bill to amend the Hindu Law was referred have considered the Bill and have now the honour to submit this our Report.

We suggest that in the preamble, instead of the word "defects", the word "doubts" may be substituted.

We recommend that the Bill need not be republished as no material alteration is made in it.

NOTIFICATION.

No. 2159—*L. C., dated Bangalore, 28th November* 1936.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend the Hindu Law is published for general information with the statement of objects and reasons.

By Order,

A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Bill to amend the Hindu Law.

Whereas it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs and to remove certain defects; it is hereby enacted as follows:—

Short Title. 1. (1) This Regulation may be called the Hindu Inheritance (Removal of disabilities) Regulation, 193

Extent. (2) It extends to the whole of Mysore.

Persons not to be excluded from inheritance or rights in joint family property. 2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of disease, deformity, or physical or mental defect.

Saving, and exception. 3. Nothing herein contained shall affect any right which has accrued or any liability which has been incurred before the commencement of this Regulation, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Regulation had not been passed.

STATEMENT OF OBJECTS AND REASONS.

The Hindu Law as at present administered contains provisions excluding from inheritance certain classes of

heirs suffering from congenital, physical or mental defects. This rule of exclusion is based on ancient texts and was based probably on the ground that the defects incapacitated the persons from having religious efficacy. Society has advanced and whatever might have been the reason for the original rule of exclusion, it has lost its force in these modern days of enlightened ideas and has become obsolete. It is therefore considered that it is time that the rule is modified by legislation.

Congenital lunacy or idiocy stand on a different footing. The persons suffering therefrom will be unable to manage the property. The disqualification for inheritance will therefore be kept up in this case.

It is not however proposed to affect rights accrued or liability incurred before the commencement of the Regulation, nor any rule regarding the management of any religious or charitable trust.

The rule has been modified in British India by Act XII of 1928 and it is proposed to introduce legislation here on similar lines.

Enc 15 paras 41

336
46

Enclosed from Lic. Proceedings

dated 26th January 1937

7. BILL TO AMEND THE HINDU LAW.

(a) Motion that the bill published under Rule 8 of the Rules of Business be read in Council.

THE FIRST MEMBER (Rajamantrapravina S.P. Rajagopalachari).-Sir, I beg to move that the Bill to amend the Hindu Law published under Rule 8 of the Rules of Business be read in Council.

The Hindu Law as at present administered contains provisions excluding from inheritance certain classes of heirs suffering from congenital physical or mental defects. This rule of exclusion is based on old and ancient texts. Whatever might have been the reason for the original rule of exclusion, it is considered that it is time now that the rule is modified by legislation so that no person, other than a person who is from birth a lunatic or idiot will be excluded from inheritanc by reason only of disease, deformity or physical mental defect. Congenital lunacy is a disease which stands on a different footing. Persons suffering therefrom will be unable to manage th property. The disqualification for inheritanc will, therefore, be kept up in their case. This rule, I may state for the information of the House has been modified in British India also by Act XII of 1928.

Before ~~proceeding with~~ this bill was proceeded with, the High Court was consulted. The Judges were of opinion that this legislation was not only desirable but also necessary to remove the iniquity existing under the Hindu Law as at present administered.

The general principles of the bill were placed before the Representative Assembly ~~in~~ at its last

last October session and the Assembly ~~have~~ accepted those general principles. Some members in the Representative Assembly wanted the disqualification in the case of idiots or lunatics from birth also to be removed. But, as explained in the Assembly, there are practical difficulties in the way of such a provision. So, it is not proposed to remove the disqualification in their case on account of the fact that even if properties were given to them, they would be unable to manage the properties, and it would not be doing a kindness to them by giving them the management of the properties which they would be obviously unable to manage. Therefore, I am saying that for the present it is considered necessary to remove the disqualification in all other cases except congenital defects such as idiocy or lunacy from birth.

This was regarded as a non-controversial measure because even in the Assembly the idea was that we should have gone further, as I stated. We thought that there would be no objection raised to it in this Council also and that is the reason for the subsequent motions which I am going to make. I hope that so far as this bill is concerned, there will not be any difference of opinion.

The GENERAL SECRETARY TO GOVERNMENT (Mr. M. Venkatesa Iyengar).-Sir, I beg to second the motion

Mr. K.T. BHASHYAM AIYANGAR.-Sir, in according my support to this motion, I wish to congratulate the Government on the bill that they have placed before the House. It is a bill which is long overdue. Agitation in this matter was started in right earnes. as early as I can remember in 1927. And in the meantime the Government of India have stolen a march over us and it is good news that now at least the Government of Mysore are placing this bill before the House. The exclusion of people who were afflicted with physical deformity was probably due, in the early days, to the reason that they could not participate in keeping off the enemy from conquering the lands and possibly also certain religious implications were also involved/ in those days. Now the ideology has changed and we have come to feel that if a person is born physically defective, it is one affliction to him already and we need not add another by taking away the property which he would have otherwise got. We would, therefore, be sinning against the man who is already afflicted and we do not feel that it is either moral or just and proper to deprive him of the property to which he is entitled. I therefore consider that this will be in perfect accord with the dictates of equity and social justice and that there will be no objection at all to the passing of this bill. Of course, I may at once state that this is also a matter in which the drafting will have to be considered by a select committee and it should be possible also in this matter

to have the report placed before this House tomorrow. I now place it before the hon. Member because I should consider even in these cases, drafting will have to be looked into in detail.

In the matter of disqualification of all lunatics being removed, I do not consider it is wise to remove the disqualification because others can manage the property. It isnot conceivable that these two classes of persons could at all retain the property or manage it to their advantage. I therefore consider ~~that~~ the provisions of this bill quite healthy and go as far as we can go.

Mr. H. SIDDAIYA.-While giving my support to this bill, I would like to say one wor(The disabilities contemplated in this bill should have been removed long back and as has been pointed out by the hon. Mover and also Mr. Bhashyam Aiyangar, the society has advanced and times have changed. This is almost a non-controlversial measure and from the point of humanity and doing social justice, this bill is necessary. I, therefore, accord my support to it.

Mr. PRESIDENT.-The question is:

"That the bill to amend the Hindu Law published under Rule 8 of the Rules of Business be read in Council."

The motion was adopted.

(b) Motion that the Rules of Business and Standing Orders be suspended and that the Bill be taken into consideration at once without reference to a select committee.

Mr. S.P. RAJAGOPALACHARI.-Sir, the next mot is that the rules of business and standing orders be suspended and that the bill be taken into consideration at once without reference to a select committee.

I may say at once that it is a matter of extreme indifference to Government whether this is taken up now or at the next session. So we are not interested one way or the other. Why this motion was put in was that we wanted to finish all legislation that has been taken up by this House. If the Members feel that it should be referred to a select committee, personally I have no objection. But I may just bring to notice the fact that the bill contains only on clause and it simply says:

> "Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of disease, deformity, or physical or mental defect."

The next clause gives the existing rights and liabilities, and that is a formal clause. If on account of this one clause, the Members want to refer it to a select committee, I have no objection. I think it will ~~be saving~~ save the time of the House and make for general convenience if my motion is accepted.

Mr. M. VENKATESA IYENGAR.-Sir, I beg to second the motion.

Mr. K. CHENGALARAYA REDDY.-Sir, the hon. First Member of Council has been pleased to say that this is a non-controversial measure and that the bill consists of only one operative clause. If I may draw the attention of the House to the proceedings of the Representative Assembly on this bill, it will find that many controversial points were raised and discussed at great length on the floor of that House. For example, it was contended why this privilege should not be extended to persons who have been from birth lunatics or idiots also and it surprises me for one to find a statement that this bill was not characterised as a controversial measure in that House. I believe it was my hon. Friend Mr. Belur Srinivasa Iyengar who made out a very strong case for an amendment on that point. Also certain doubts were raised on the floor of that House as to how the property should be managed in case powers of inheritance were extended to those persons, also what were the repercussions, what was the connection between this Act and th Wards and Guardians' Act and so on. Many controversial points were touched upon and all thos need to be considered very carefully. Even if t Government were pleased to agree to refer this bill to a select committee, it can be gone into at once and the report presented to this House b tomorrow. I rather think it is desirable to postpone the consideration of this bill to the next re-constituted House.

With these observations, I beg to oppose the motion.

Mr. K.T. BHASHYAM AIYANGAR.-Sir, while the one hand, the hon. First Member wants that the rules of business be suspended and we proc with the motion to pass this bill, here is a suggestion that the matter be postponed to the next Council.....

Mr. S.P. RAJAGOPALACHARI.-I may help the discussion of the matter by saying that the Government have absolutely no objection to put off the consideration of this measure for the new Council.

Messrs. D.V. GUNDAPPA & K.T. BHASHYAM AIYANGAR.-Thanks.

The ~~motion~~ was, by leave, withdrawn

Bill was [illegible]

NOTIFICATION.

No. Rl. 970—*L. C., dated Bangalore, the 6th April* 1937.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend the Hindu Law is published for general information with the statement of objects and reasons.

By Order,

A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Bill to amend the Hindu Law.

Whereas it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs and to remove certain defects; it is hereby enacted as follows:—

1. (1) This Regulation may be called the Hindu Inheritance (Removal of Disabilities) Regulation, 193 . Short Title.

(2) It extends to the whole of Mysore. Extent.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of disease, deformity or physical or mental defect. Persons not to be excluded from inheritance or rights in joint family property.

3. Nothing hereincontained shall affect any right which has accrued or any liability which has been incurred before the commencement of this Regulation, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Regulation had not been passed. Saving and exception.

STATEMENT OF OBJECTS AND REASONS.

The Hindu Law as at present administered contains provisions excluding from inheritance certain classes of heirs suffering from congenital, physical or mental defects. This rule of exclusion is based on ancient texts and was based probably on the ground that the defects incapacitated the persons from having religious efficacy. Society

has advanced and whatever might have been the reason for the original rule of exclusion, it has lost its force in these modern days of enlightened ideas and has become obsolete. It is therefore considered that it is time that the rule is modified by legislation.

Congenital lunacy or idiocy stand on a different footing. The persons suffering therefrom will be unable to manage the property. The disqualification for inheritance will therefore be kept up in this case.

It is not however proposed to affect rights accrued or liability incurred before the commencement of the Regulation, nor any rule regarding the management of any religious or charitable trust.

The rule has been modified in British India by Act XII of 1928 and it is proposed to introduce legislation here on similar lines.

BILL TO AMEND THE HINDU LAW.

Leave to move that the Bill to amend the Hindu Law published under Rule 8 of the Rules of Business be read in Council.

The Hindu Law, as at present administered, contains, provisions excluding from inheritance certain classes of heirs suffering from congenital physical or mental defects. This rule of exclusion is based on ancient texts. Whatever might have been the reason for the original rule of exclusions, it is considered that it is time that the rule is modified by legislation so that no person other than a person who is from birth a lunatic or idiot will be excluded from inheritance by reason only of disease, deformity or physical or mental defect.

Congenital lunacy or idiocy stands on a different footing. The persons suffering therefrom will be unable to manage the property. The disqualification for inheritance will therefore be kept up in their case.

It is not, however, proposed to affect rights accrued or liability incurred before the commencement of the Regulation, nor any rule regarding the management of any religious or charitable trust.

The rule has been modified in British India by Act XIIof 1928.

Before proceeding with this Bill the High Court was consulted and the Judges were of opinion that this legislation was not only desirable but also necessary to remove the inequality existing under the Hindu Law as at present administered.

Some members in the Representative Assembly wanted the disqualification in the case of congenital idiots and lunatics also to be removed. But, as explained in the Assembly, there are practical difficulties in the way. For the present it is considered necessary to remove the disqualification in all other cases.

The General principles of this Bill have been placed before the Representative Assembly in the last October session and the Assembly has accepted the principles.

PROCEEDINGS OF THE THIRTY-FOURTH MEETING OF THE RECONSTITUTED MYSORE LEGISLATIVE COUNCIL.

BUDGET SESSION—JUNE AND JULY 1937.

(First Day.)

Saturday, 26th June 1937.

The reconstituted Council met at the Council Hall, Public Offices, Bangalore, on Saturday, 26th June 1937, at 12 of the clock, Mr. President (*Amin-ul-Mulk* Sir Mirza M. Ismail, K.C.I.E., O.B.E., *Dewan*) in the Chair.

MEMBERS SWORN.

The following Members made the prescribed oath or affirmation of allegiance to His Highness the Maharaja and then took their seats :—

Abdul Wajid, Mr. S.
Anantaraman, Mr. K. V.
Balakrishnaiya, Mr. N.
Chandrasekharaiya, Mr. D. H.
Chengalaraya Reddy, Mr. K.
Crowle, Mr. P. J.
Dasappa, Mr. H. C.
DeSouza, Dr. F. X.
Dyave Gowda, Mr. M. S.
Forbes, Mr. S. G.
Girimaji Rao, Mr. G.
Gundappa, Mr. D. V.
Gundappa, Mr. H. B.
Guruv Reddy, Mr. H. R.
Hamilton, Mr. F. A.
Hayavadana Rao, *Rajacharitavisarada Rao Sahib* C.
Henjarappa, Mr. K.
Kesavaiengar, Mr. B. T.
Lakshminaranappa, Mr. Mirle N.
Linge Gowda, Mr. M. C.
Machaya, Mr. M.
Mahomed Abbas Khan, *Khan Bahadur*
Mahomed Imam, Mr. J.
Mallappa, Mr. D. S.
Mehkri, Mr. M. G.
Morris, Mr. R. C.
Murugesam Pillay, Mr. P.
Nagappa Setty, *Dharmapravarta* M. L.
Narayana Rao, *Rajasevasakta* Dr. B. K.
Puttananjappa, Mr. B. R.
Puttaswamy, Mr. B.
Rama Iyer, Mr. T. G
Ramachandra, Mr. T
Ramanathan, Mr. A.
Ramaswami, Mr. H.
Sastry, Mr. S. G.
Satyanarayana Setty, Mr. K. T.
Scaldwell, Mr. R. W.
Shamanna, *Rajasevanipuna* S.
Siddaiya, Mr. H.
Sinclair, Mr. H. D.
Srinivasa Iyengar, *Rajasabhabhusha Diwan Bahadur* K. R.
Subba Rao, Mr. N. S.
Subbannachar, Mr. K. R.
Subbarama Chetty, Mr. P.
Venkatanaranappa, Mr. M.
Venkatappa, Mr. V.
Venkatesa Iyengar, Mr. M.

ABSENT.

Mr. P. Parthasarathi.

SECRETARY'S REPORT.

The following Regulations received the assent of His Highness the Maharaja on the dates specified against them :—

. Regulation to amend the Mysore Religious and Charitable Institutions Regulation, I of 1937 ..	2nd February 1937.
. Regulation further to amend the Mysore Agriculturists' Relief Regulation, II of 1937 ..	2nd February 1937.
. The Mysore Maternity Benefit Regulation, III of 1937 ..	4th February 1937.
. The Mysore Wireless Telegraphy Regulation, IV of 1937	4th February 1937.
. Regulation further to amend the Mysore Village Panchayat Regulation, V of 1937 ..	4th February 1937.
. The Mysore Debt Conciliation Regulation, VI of 1937	4th February 1937.

QUESTIONS AND ANSWERS.

Electric Power for Irrigation Installations.

*Q.—21. **Mr. K. CHENGALARAYA REDDY.**—Will the Government be pleased to state :—

(*a*) whether any Government Order has been passed requiring the consumers of electric power to guarantee a return of five per cent of the capital outlay on irrigation installations and 10 per cent on other installations ;

(*b*) if the answer is in the affirmative, whether the order can be placed on the table of the House ;

(*c*) whether the order is applicable to old installations also or to such of those installed subsequent to the passing of the Government Order ;

(*d*) whether the Government are aware that insistence on a guarantee of a return of a fixed percentage on capital outlay in respect of installations, especially old ones, has acted as a great hardship ;

(*e*) whether they have any proposals under consideration to modify the present rules ?

A.—**The FIRST MEMBER (Rajamantrapravina S. P. Rajagopalachari).**—

(*a*) Yes.

(*b*) The connected Government Orders are placed on the table (Appendix).

(*c*) Old installations are charged as per the terms of the agreement with the consumers during the period of currency. In all other cases the existing rates as per sanctioned schedules are adopted.

(*d*) Guarantee of a fixed percentage of return has to be insisted on as an assured return on the capital investment is required.

(*e*) Yes.

Mr. K. CHENGALARAYA REDDY.—May I know if the Government Order dated 12th August 1936 is applicable to all installations including pumping installations in rural areas ?

Mr. S. P. RAJAGOPALACHARI.—That order applies to interior power and lighting works and electrification Schemes, while there is a special order in connection with irrigation installations.

Mr. K. CHENGALARAYA REDDY.—As regards pumping installations, a minimum yield of only five per cent is insisted upon. May I take it that this percentage is not superseded by the second order ?

Mr. S. P. RAJAGOPALACHARI.—For pumping installations, the guarantee insisted upon is five per cent. So far as the interior power and lighting and rural electrification schemes go, the guarantee had been fixed at 15 per cent till 1935. It was reduced to 10 per cent in the second order.

Mr. K. CHENGALARAYA REDDY.—Have the Government any idea of increasing the 10 per cent to 13 per cent or 15 per cent later on ?

Mr. S. P. RAJAGOPALACHARI.—No.

Mr. K. CHENGALARAYA REDDY.—Are the Government aware that when first the irrigation pumps were installed, the people were given much encouragement to instal them without any sort of guarantee being demanded from them ?

Mr. S. P. RAJAGOPALACHARI.—Even at that time some return on the capital invested was required and this five per cent guarantee was fixed then. This

SECRETARY'S REPORT.

The following Regulations received the assent of His Highness the Maharaja on the dates specified against them :—

1. Regulation to amend the Mysore Religious and Charitable Institutions Regulation, I of 1937 ..	2nd [illegible]
2. Regulation further to amend the Mysore Agriculturists' Relief Regulation, II of 1937 ..	2nd February 1937.
3. The Mysore Maternity Benefit Regulation, III of 1937 ..	4th February 1937.
4. The Mysore Wireless Telegraphy Regulation, IV of 1937	4th February 1937.
5. Regulation further to amend the Mysore Village Panchayat Regulation, V of 1937 ..	4th February [illegible]
6. The Mysore Debt Conciliation Regulation, VI of 1937	4th February 1

QUESTIONS AND ANSWERS

Electric Power for Irrigation Installations.

*Q.—21. Mr. K. CHENGALARAYA REDDY.—Will the Government be pleased to state :—

(*a*) whether any Government Order has been passed requiring the consumers of electric power to guarantee a return of five per cent of the capital outlay on irrigation installations and 10 per cent on other installations ;

(*b*) if the answer is in the affirmative, whether the order can be placed on the table of the House ;

(*c*) whether the order is applicable to old installations also or to such of those installed subsequent to the passing of the Government Order ;

(*d*) whether the Government are aware that insistence on a guarantee of a return of a fixed percentage on capital outlay in respect of installations, especially old ones, has acted as a great hardship ;

(*e*) whether they have any proposals under consideration to modify the present rules ?

*A.—The FIRST MEMBER (Rajamantrapravina S. P. Rajagopalachari).—

(*a*) Yes.

(*b*) The connected Government Orders are placed on the table (Appendix).

(*c*) Old installations are charged as per the terms of the agreement with the consumers during the period of currency. In all other cases the existing rates as per sanctioned schedules are adopted.

(*d*) Guarantee of a fixed percentage of return has to be insisted on as an assured return on the capital investment is required.

(*e*) Yes.

Mr. K. CHENGALARAYA REDDY.—May I know if the Government Order dated 12th August 1936 is applicable to all installations including pumping installations in rural areas ?

Mr. S. P. RAJAGOPALACHARI.—That order applies to interior power and lighting works and electrification schemes, while there is a special order in connection with irrigation installations.

Mr. K. CHENGALARAYA REDDY.—As regards pumping installations, a minimum yield of only five per cent is insisted upon. May I take it that this percentage is not superseded by the second order ?

Mr. S. P. RAJAGOPALACHARI.—For pumping installations, the guarantee insisted upon is five per cent. So far as the interior power and lighting and rural electrification schemes go, the guarantee had been fixed at 15 per cent till 1935. It was reduced to 10 per cent in the second order.

Mr. K. CHENGALARAYA REDDY.—Have the Government any idea of increasing the 10 per cent to 13 per cent or 15 per cent later on ?

Mr. S. P. RAJAGOPALACHARI.—No.

Mr. K. CHENGALARAYA REDDY.—Are the Government aware that when first the irrigation pumps were installed the people were given much encouragement to instal them without any sort of guarantee being demanded from them ?

Mr. S. P. RAJAGOPALACHARI.—Even at that time some return on the capital invested was required and this five per cent guarantee was fixed then. This

five per cent guarantee is itself an act of concession because the actual working charges would be much more. It is with a view to encourage these pumping installations that the charges were fixed as low as five per cent while the actual rate of guarantee is about 15 per cent in the case of other installations.

Mr. K. CHENGALARAYA REDDY.—Is it not a fact that when irrigation pumps were installed for the first time in the Mysore State, no sort of guarantee was required, and in many cases lines were run at prohibitive cost without insisting on a high return from these pumps ?

Mr. S. P. RAJAGOPALACHARI.—Quite likely, in some cases. But as it was afterwards found that the whole scheme was costing the Government a great deal, a low guarantee of five per cent came to be insisted upon.

Mr. K. CHENGALARAYA REDDY.—Does it not mean that so far as the older installations are concerned, this rule acts as a hardship ?

Mr. S. P. RAJAGOPALACHARI.—But the Government are making these investments from borrowed funds and they are paying interest on them. So, some return on the capital invested must be assured and the five per cent guarantee is as low as we could possibly manage with now.

Mr. K. CHENGALARAYA REDDY.—I am thankful for the information given by the Government. But is it not a fact that in those cases where lines have been run at great cost and where pumping installations were given without having an eye to the probable return on the outlay, the application of the present rule acts as a hardship especially in view of the fact that the people had to invest some amount of capital for installing those pumps ?

Mr. S. P. RAJAGOPALACHARI.—It might be ; but some relief has been given to consumers by revising the minimum charges from one rupee to eight annas per h. p. and by reducing the rate from one anna to half an anna per unit.

Mr. K. CHENGALARAYA REDDY.—That is in the alternative, if it falls short of a return of five per cent on the outlay. This minimum will not benefit them in any manner.

Mr. S. P. RAJAGOPALACHARI.—This minimum of one rupee has now been reduced to eight annas and that is a very great concession.

Mr. K. CHENGALARAYA REDDY.—But if the charges on the basis of that rule are less than five per cent return on the capital outlay, then even the reduced minimum will not be of any use to the consumer. The question I am putting now is whether, in regard to some of the old installations which were given by the Government at a prohibitive cost, the application of the present rule does not work as a hardship and whether the Government will be pleased to exempt such installations from this rule.

Mr. S. P. RAJAGOPALACHARI.—The question is under the consideration of the Department and the Government and the point raised will also be taken into consideration while disposing of the question. Please see the answer to the last clause.

Mr. K. CHENGALARAYA REDDY.—May I take it that in the case of pumping installations, the question of reducing the percentage of return will be considered ?

Mr. S. P. RAJAGOPALACHARI.—The matter is under examination now in the Department and I cannot say anything more just at present. If at all there is any change, it will be towards a reduction.

Mr. K. CHENGALARAYA REDDY.—Are the Government aware that there have been frequent changes in the schedule of rates and terms of contract as regards the supply of power to the various consumers and that the consumers are in a state of uncertainty as regards the terms on which they took power from time to time ?

Mr. S. P. RAJAGOPALACHARI.—The changes are made at the request of the consumers. The last important change was made at the instance of the consumers and the Government appointed a committee to go into the question. They recommended certain rates which were accepted by Government and those are the rates which are in force now. So

t cannot always be said that Govern-nent change these rates without any lemand for it on the part of the consum-ng public.

Mr. K. CHENGALARAYA REDDY.—[s it not a fact that these changes are oeing made very frequently and the consumers are in a sort of uncertainty is regards the terms on which they have aken power ?

Mr. S. P. RAJAGOPALACHARI.—I cannot accept that statement that it is oeing done very frequently so as to cause nconvenience to the consuming public. Jnless it is unavoidable, the Department vould not make change.

Mr. K. CHENGALARAYA REDDY.—Will the Government be pleased to consider the question of applying the new rules to only new installations and not to old ones ?

Mr. S. P. RAJAGOPALACHARI.—That matter also will be considered.

The CHIEF ELECTRICAL ENGINEER (Mr. S. G. Forbes).—May I explain the position ? The hon. Member makes a distinction between old and the new consumers. He complains that the old consumers are being penalised now. The position is this : We gave a certain number of pumping installations up to about 1925-26 without any guaranteed minimum, in the expectation that the raiyats would make use of electrical power for growing profitable crops. After a certain number of years we found that they were not doing so, were not using the power for pumping and were not improving their agricultural operations. Therefore, on the recommendation of the Electrical Department, Government prescribed a minimum which the consumers would have to pay whether they used the pumps or not. This has had a very beneficial effect upon the raiyats and they are now beginning to use them more and more for pumping water for irrigating profitable crops, which they were generally not doing before the minimum was imposed. That is the fundamental principle on which these rules are framed, *viz.*, that the raiyat is forced to use the pumps and grow paying crops.

Mr. T. RAMACHANDRA.—Is it not a fact that the Electrical Department is a highly paying Department and brings a large revenue to the Government ?

Mr. S. P. RAJAGOPALACHARI.—Some time ago, it did bring very good profits.

Mr. T. RAMACHANDRA.—Even now it brings some profit ?

Mr. S. P. RAJAGOPALACHARI.—I suppose so.

Mr. T. RAMACHANDRA.—If so, why not the Government forego a portion of the profit and permit poor people to have electric power at concession rates ?

Mr. S. P. RAJAGOPALACHARI.—The subject is under consideration.

Chikmagalur Municipal Council.

**Q.*—25. Mr. K. CHENGALARAYA REDDY.—Will the Government be pleased to state :—

(*a*) the circumstances under which the privilege of the Chikmagalur Town Municipality to elect its own *non-Official* President was taken away by the Government ;

(*b*) as to when the privilege is proposed to be restored ?

A.—The SECOND MEMBER (Rajamantrapravina N. MADHAVA RAU).—(*a*) and (*b*) The attention of the Member is invited to the Press Communique, dated 29th May 1937, issued by Government on the subject (Appendix).

Mr. K. CHENGALARAYA REDDY.—When did it first come to the notice of the Government that the affairs of the Chikmagalur Municipality were in a bad condition.

Mr. N. MADHAVA RAU.—All the facts are stated in the Press Communique. I have nothing to add to it.

Mr. K. CHENGALARAYA REDDY.—The statement says "In the meantime, it was brought to the notice of the Government that there had been for some time past a deterioration in the efficiency of the municipal administration of the town." May I know when the attention of the Government was first drawn ?

Mr. N. MADHAVA RAU.—It has been coming to the notice of Government from time to time. The earliest occasion I remember was in 1935.

A.—The FIRST MEMBER (Rajamantrapravina S. P. Rajagopalachari).—Yes, but only apparent and not substantial.

GOVERNMENT BUSINESS—BILLS.

Bill to amend the Hindu Law.

(a) *Motion that the Bill published under Rule 8 of the Rules of Business be read in Council.*

The FIRST MEMBER (Rajamantrapravina S. P. Rajagopalachari).—Sir, the object of this bill is to modify by legislation the existing Hindu Law which excludes from inheritance certain classes of heirs suffering from congenital, physical or mental defects. Those of you who were Members of the previous Council will remember that this bill was brought up at the last session of that Council and I made a speech explaining in detail the provisions of the bill. In fact, at that session, the motion that the bill be read in Council was passed. But there was a discussion as to whether the bill should be passed at one sitting or whether it should be referred to a select committee. As some members wished that the bill should be referred to a select committee and the details further discussed, Government withdrew the bill at that time and are now reintroducing it in this session. I do not think it is necessary for me to go into any detailed discussion of the bill again; and I therefore move that the bill be read in Council.

The SECRETARY TO GOVERNMENT, GENERAL DEPARTMENT (Mr. M. Venkatesa Iyengar).—Sir, I beg to second the motion.

*Mr. H. SIDDAIYA.—Sir, with pleasure I accord my support to this bill. I did so at the last January session and I do so to-day for this reason that in the interest of equity and social justice, this measure is highly desirable and necessary. It was said, when the hon. Mover moved it last time, that the Judges of the High Court were also consulted and they were in favour of removing the disability and iniquity. It was also said that this bill had become law in British India more than a decade ago. I think, Sir, it is high time to reconsider and revise our ancient texts which are based upon some religious implications. In fact, as was pointed out by the hon. Mover, at the last October session, the Representative Assembly also unanimously approved this bill.

For these reasons, I support the motion.

Mr. D. H. CHANDRASEKHARAIYA.—Sir, this piece of social legislation intends to do equity and justice to a class of persons who, for no fault of their own, are born with some mental or physical defect such as deafness, blindness, deformity and so on. To deprive such persons of the right to inherit property on the ground of some religious notion, is certainly very unjust and unbecoming. Such a notion might have had its day once; but thanks to the present-day culture and civilization it has lost its ground altogether. There are many other instances of injustice under the Hindu Law which are still being tolerated; and I think a time will come when all these hardships will have to be considered comprehensively and justice done to all classes of people. For the present, we are much satisfied with this measure. I would agree if the Government were to include even lunatics and idiots under the operation of this law with certain safeguards as in the case of minors. Minors are also persons who are unable to manage their own properties and the law provides certain safeguards for their management and protection. Similarly, lunatics and idiots—they may be born lunatics or born idiots—may be protected under the operation of this law. The sins of the fathers should not be visited upon their sons. I think social justice requires that even these persons should have the benefit of the law.

Mr. H. C. DASAPPA.—Sir, I am afraid I cannot easily subscribe to my learned Friend Mr. Chandrasekharaiya's statement that congenital lunatics and idiots also must have the benefit of this amending bill. That would lead to serious complications, the repercussions of which my hon. Friend might not have

easily seen. For instance, trouble would arise with regard to alienations by such defectives and I do not think any safeguards would go to protect the interests of either the lunatics or idiots or the properties themselves.

Mr. D. H. CHANDRASEKHARAIYA.—What are the difficulties?

Mr. H. C. DASAPPA.——Difficulties such as I have indicated. It is not that they will be abandoned in the streets; they would certainly have their maintenance and would be looked after.

Mr. D. H. CHANDRASEKHARAIYA.—But can the blind man enjoy the property without the help of others?

***Mr. H. C. DASAPPA.**—He has got his senses about him even if he has no sight.

I would join the rest of my hon. Friends in welcoming this piece of legislation. It is one which purports to undo a wrong done for ages. It is only a belated justice that we are doing now. I would like to draw the attention of this House to a very significant sentence in the statement of objects and reasons, *viz.*, "The society has advanced and whatever might have been the reason for the original rule of exclusion, it has lost its force in these modern days of enlightened ideas and has become obsolete." That is an ideal which we may very well and very profitably bear in mind when we tackle most of such questions. If I introduce just one small expression in between the sentence, it will satisfy my hon. Friend Mr. T. Ramachandra a great deal, *viz.*, "Whatever might have been the reason for the original rule of exclusion of Depressed Classes from temples." And, what a great problem would have been solved, and what a grave injustice remedied!

Sir, I have great pleasure in supporting this measure.

Mr. K. R. SUBBANNACHAR.—Sir, in supporting this bill, I should like to bring to the notice of this Council one important fact. The idea of inheritance according to the Hindu Law is not due to any physical relationship between father and son. It is due to the competency of the son to perform certain religious duties, as is observed in the statement of objects and reasons. It has to be conceded that a diseased person or a deformed person or a person with physical incapacity can perform religious acts but not a man who has mental defects. So I should like to bring to the notice of the Government that if the words "or mental defect" are excluded from the bill, I will give my whole-hearted support to the bill.

Mr. D. V. GUNDAPPA.—I should like to be favoured with information just on one point, *viz.*, the significance of the conjunction 'and' in clause (2): "other than a person who is *and* has been from birth a lunatic or idiot". Is the person to be excluded required to be a lunatic from birth or is it enough if he is a lunatic made or turned so later on? In other words, is the clause to apply also to a person who has turned lunatic a long time after his birth?

Mr. K. HENJARAPPA.—In supporting the bill, I beg to bring to the kind notice of the Government that another aspect might be considered by the select committee to which this bill will be referred later on, and that is, making the bill to have retrospective effect. The persons whom the bill intends to benefit will be entitled to have the right to property hereafter. But in the case of persons who have been otherwise incapacitated from inheritance just at present, what is the sin they have committed? Let them also have an opportunity of having their share of the property, just as the persons who will get the right after the Regulation comes into force.

Mr. S. P. RAJAGOPALACHARI.—Sir, I am glad to find that the House is generally in favour of this piece of social legislation. In regard to the various points raised, I may say that the bill is going to the select committee and all those points can be discussed there. I need not discuss them now as they do not affect the general principles of the bill.

So, my motion may now be placed before the Council.

Mr. PRESIDENT.—The question is:

"That the Bill to amend the Hindu Law published under Rule 8 of the Rules of Business be read in Council."

The motion was adopted.

(*b*) *Motion that the Bill be referred to a Select Committee.*

Mr. S. P. RAJAGOPALACHARI.—Sir, I beg to move that the bill be referred to a select committee consisting of:

Mr. M. Venkatesa Iyengar,
,, Mirle Lakshminaranappa,
,, D. V. Gundappa,
Rajasabhabhushana Diwan Bahadur K. R. Srinivasa Iyengar,
Mr. D. H. Chandrasekharaiya,
Dharmapravartha M. L. Nagappa Setty and Myself.

Mr. M. VENKATESA IYENGAR.—Sir, I beg to second the motion.

Mr. PRESIDENT.—The question is:

"That the bill be referred to a select committee consisting of the gentlemen named by the Mover."

The motion was adopted.

2. Bill for removal of Disabilities arising from change of Religion or deprivation of Caste.

(*a*) *Motion that the Bill published under Rule 8 of the Rules of Business be read in Council.*

The FIRST MEMBER (Rajamantrapravina S. P. Rajagopalachari).—Sir, I beg to move that the Bill for removal of Disabilities arising from change of Religion or deprivation of Caste published under Rule 8 of the Rules of Business be read in Council. Under the Hindu Law, on conversion to Christianity or any other religion, a person is considered civilly dead and the conversion deprives him of his rights of inheritance. In order to remove this disability, Act XXI of 1850 was passed in British India. Indian Christian converts in Mysore are legally incapable of asserting their rights to property against the Hindu members of the family from which they have separated. The question of the introduction of an enactment similar to the British Indian Act XXI of 1850 has been under discussion in Mysore since 1875. At that time it was dropped as public opinion did not appear to be in its favour. In 1905 a Committee was appointed by Government presided over by Mr. Stanley, Chief Judge of the Chief Court, to investigate the whole question and report as to the best course of action that might be adopted by Government. The committee went elaborately into the whole question and presented a report with a bill, the basic principle of which was that, as far as possible, neither the convert nor his Hindu relations should either lose or gain by the conversion or by the loss of caste of one of the members of the family. This bill was introduced in the Legislative Council in 1910; but leave of the Council was refused. In 1922, a deputation of the representatives of the Indian Christian Association waited upon the Dewan and he replied that the Government would have no objection to examine the question afresh if public sentiment had undergone a change.

Government feel that the time has now come for reconsidering the question in the light of modern ideas and tendencies. A draft bill on the lines of that prepared by the Stanley Committee was therefore published in April 1936 for ascertaining public opinion in the matter.

Before dealing with some general aspects of the question, I should like to say that this bill is slightly different from the British Indian Act as the right conferred by the bill is neither so large nor so unqualified as in the British Indian Act. It is subject to the important proviso that the convert shall not exercise any right which is peculiar or appropriate to the religion from which he has seceded. Another point I would specially invite attention to is the provision that no person shall be divested or deprived of any property or right merely by reason of another person having renounced religion or being deprived of his caste. This is intended to secure vested rights in favour of those who remain within the fold. You will thus see that all ample safeguards are provided against the consequences of a person's change in religion and that there can be no reasonable objection on the score that this secession of any one person from the family will upset the rights and responsibilities of other members of the family.

The bill was placed before the representative Assembly during the Dasara Session in 1936 but it was thrown out by the House by a large majority. The main reasons which seem to have actuated the House in rejecting the bill are that no reasons have been shown why the bill should be taken up now, that the non-enactment of this bill has not led to inconvenience till now and that it is likely to encourage conversion from the religion professed by the majority of the people and lead to disruption of the communities concerned.

With regard to these points, I shall quote certain observations I made at the end of the Session of the Assembly:

* * * *

To my mind, there was a tendency to look too much to the past and to ignore the equirements of the future. The rejection of he proposal in 1910 was repeatedly referred o, but conditions are changing so rapidly that, whatever might have been acceptable then, annot be a true guide to our action at the resent day. The disruption of the communities concerned was another reason urged; ut in this matter, experience in British India luring the past so many years does not lend upport to any such conclusion.

Evidently there was an apprehension hat the religion of the majority of the people would somehow be in danger. A very careful examination will however how that there is no basis for any such misapprehension. The Act has been in force for more than 87 years in British India and there has been no whisper of any suggestion that its existence on the Statute Book has in any way affected the followers of the Hindu religion. Objections based on mere misapprehension should not stand in the way of legislation which seeks to give equal opportunities for all individuals to exercise their own choice in religious matters without the fear that their civil rights will be affected. I think this is a principle on which there should not be much difference of opinion. It is for these reasons that Government have decided that in spite of the adverse opinion of the Assembly, the bill ought to be pursued further and I am sure that the Members of this House will support Government in enacting measure, on grounds of justice and toleration.

The SECRETARY TO GOVERNMENT, GENERAL DEPARTMENT (Mr. M. Venkatesa Iyengar).—Sir, I beg to second the motion.

Mr. H. SIDDAIYA.—May I know whether the official Members are at liberty to speak on the bill as they choose?

Mr. PRESIDENT.—The hon. Member need not bother himself about the official Members.

Rajacharitavisarada Rao Sahib C. Hayavadana Rao.—I rise to support the bill for the very good reason that it is a measure of justice that has long been overdue. The happiness of a nation depends in matters of this nature on the alacrity with which it bridges the gulf that exists between law and the opinion that might exist at any moment. That a chasm has existed in regard to the proposed piece of legislation for quite a long time, especially in this State, is quite clear. There have been repeated criticisms passed on the need for legislation of this kind. And it is a pity that for one reason or another it has not been possible to take it up so far and pursue in the manner in which the present bill attempts to do. It, I think, reverses a very old decision of the Mysore High Court case which is familiarly known as "Chikkamma *Vs.* Dasappa." I think that decision has been commented upon adversely by the very highest Anglo-Indian authority on Hindu Law. You have only to refer to Mayne and you will see what a feeling it created at the time that decision was pronounced. Quite independently of that, it is, as I said, a question of justice essentially due to persons who seek for the sake of conscience to leave one religion and go to another. After all, all religions, when measured out, are attempts at a personal equation between man and his Creator. I do not think questions of property rights should at all intervene in matters of religion. Society to-day in the State has advanced so far that it is capable of understanding a position like that. It is said that in older days when Buddhism was the current religion of the common people, a family consisted of a father

Bill to amend the Hindu Law

(a) Motion that the Bill published under Rule 8 of the Rules of Business be read in Council.

The FIRST MEMBER (Rajamantrapravina. S. P. Rajagopalachari).—Sir, the object of this bill is to modify by legislation the existing Hindu Law which excludes from inheritance certain classes of heirs suffering from congenital, physical or mental defects. Those of you who were members of the previous Council will remember that this bill was brought up at the last session of that Council and I made a speech explaining in detail the provisions of the bill. In fact, at that session, the motion that the bill be read in Council was passed. But there was a discussion as to whether the bill should be passed at one sitting or whether it should be referred to a select committee. As some members wished that the bill should be referred to a select committee and the details further discussed, Government withdrew the bill at that time and are no wreintroducing it int his session. I do not think it is necessary for me to go into any detailed discussion of the bill again; and I, therefore, move that the bill be read in Council.

THE SECRETARY to GOVERNMENT, GENERAL DEPARTMENT (Mr. M. Venkathsa Iyengar).—Sir, I beg to second the motion.

***Mr. H. SIDDAIYA.**—Sir, with pleasure I accord my support to this bill. I did so at the last January session and I do so to-day for this reason that in the interest of equity and social justice, this measure is highly desirable and necessary. It was also said when the hon. Mover moved it last time that the Judges of the High Court were also consulted and they were in favour of removing the disability and iniquity. It was also said that this bill had become a law in British India more than a decade ago. I think, sir, it is high time to reconsider and revise our ancient texts which are based upon some religious implications. In fact, as was pointed out by the hon. Mover, at the last October session, the Representative Assembly also has unanimously approved of this bill.

For these reasons, I support the motion.

Mr. D. H. CHANDRASEKHARIYA.—Sir, this piece of social legislation intends to do equity and justice to a class of persons who for no fault of their own, are born with some mental or physical defect such as deafness, blindness, deformity and so on. To deprive such persons of the right to inherit property, on the ground of some religious notion is certainly very unjust and unbecoming. Such a notion might have had its day once; but thanks to the present day culture and civilization it has lost its ground altogether. There are many other instances of injustice under the Hindu Law which are still being tolerated; and I think a time will come when all these hardships will to be considered comprehensively and justice done to all classes of people. For the present, we are very much satisfied with

this measure. I would even agree if the Government were to include lunatics and idiots under the operation of this law with certain safeguards as in the case of minors. Minors are also persons who are unable to manage their own properties and the law provides certain safeguards for their management and protection. Similarly, the lunatics and idiots (they may be born lunatics or born idiots) may be protected under the operation of this law. The sins of fathers should not be visited on the sons, I think social justice requires that even these persons should have the benefit of this law.

*Mr. H. C. DASAPPA.—Sir, I am afraid I cannot easily subscribe to that portion of my learned Friend Mr. Chandrasekharaiya's statement to the effect that congenital lunatics and idiots also must have the benefit of this amending bill. That would lead to serious complications, I believe, the repercussions of which my hon. Friend might not have easily seen. There are various questions of alienations and so on and I do not think the question of some safeguards would go to protect the interests of either parties concerned—that is lunatics or idiots—or the properties themselves.

Mr. D. H. CHANDRASEKHARAIYA.—What are the difficulties?

*Mr. H. C. DASAPPA.—It is not that they will be abandoned in the streets; they would certainly have their maintenance and would be very well looked after.

Mr. D. H. CHANDRASEKHARAIYA.—Even the blind man may not be able to enjoy the property without the help of others.

*Mr. H. C. DASAPPA—But he has got his senses about him even if he has no sight.

I would join the rest of my hon. Friends in welcoming this piece of legislation. It is one which purports to undo a wrong done for ages. It is only a belated justice that we are extending at this stage. In doing so, I would like to draw the attention of this House to a very significant sentence in the statement of objects and reasons, *viz.*, "the society has advanced and whatever might have been the reason for the original rule of exclusion, it has lost its force in these modern days of enlightened ideas and has become obsolete." That is an ideal which we may very well and very profitably bear in mind when we tackle most of these questions. If I introduce just one small expression in between the sentence, it will satisfy my hon. Friend Mr. T. Ramachandra a great deal, *viz.*, the original rule of exclusion of Depressed Classes from temples.

I have got great pleasure in supporting this measure.

Mr. K. R. SUBBANNACHAR.—Sir, in supporting this bill, I should like to bring to the notice of this Council one important fact. The idea of inheritance according to the Hindu Law is not due to any physical relationship between father and son. It is due to the competency of the son to perform certain religious duties as is observed in the statement of objects and reasons. It has to be conceded that a diseased person or deformed person or a person with physical incapacity can perform religious acts but not a man who has mental defects. So I should like to bring to the notice of the Government that if the words "or mental defect" are excluded from the bill, I will give my whole-hearted support to the bill.

Mr. D. V. GUNDAPPA.—I should like to be favoured with information just on one point, *viz.*, the significance of the conjunction 'and' in clause (2): "other than a person who is *and* has been from birth a lunatic or idiot". Is the person to be excluded required to be a lunatic from birth or is it enough if he is a lunatic made or turned so later on? In other words, is the clause to apply also to a person who has turned lunatic only a long time after his birth?

Mr. K. HENJARAPPA.—In supporting the bill, I beg to bring to the kind notice of the Government that another aspect might be considered by the select committee to which this bill will be referred later on. And that is, making the bill to have retrospective effect. The persons whom the bill intends to benefit will be entitled to have the right to property hereafter. But in the case of persons who have been otherwise incapacitated from inheritance just at present, what is the sin they have committed? Let them also have an opportunity of having their share of the property, just as the persons who will get the right after the Regulation comes into force.

Mr. S. P. RAJAGOPALACHARI.—Sir, I am glad to find that the House is generally in favour of this piece of social legislation. In regard to the various points raised, I may say that the bill is going to the select committee and all those points can be discussed there. I need not discuss them now as they do not affect the general principles of the bill.

So, my motion may now be placed before the Council.

Mr. PRESIDENT.—The question is:

The motion was adopted.

"That the bill published under rule 6 of the Rules of Business be read in Council."

(*b*) *Motion that the bill be referred to a Select Committee.*

Mr. S. P. RAJAGOPALACHARI.—Sir, I beg to move that the bill be referred to a select committee consisting of:

Messrs:—

1. M. Venkatesa Iyengar,
2. Mirle Lakshminaranappa,
3. D. V. Gundappa,
4. K. R. Srinivasa Iyengar,
5. D. H. Chandrasekharaiya,
6. M. L. Nagappa Setty and
7. myself.

Mr. M. VENKATESA IYENGAR.—Sir, I beg to second the motion.

Mr. PRESIDENT.—The question is:

The motion was adopted.

"That the bill be referred to a select committee composing the gentlemen named by the ."

REPORT OF THE SELECT COMMITTEE ON THE

BILL TO AMEND THE HINDU LAW.

We, the undersigned members of the Select Committee to which the Bill to amend the Hindu Law was referred have considered the Bill and we are of opinion that it requires no ~~material~~ alterations (except ~~to~~ point out the error) as noted.

~~We recommend~~ that ~~the Bill~~ it need not be republished.

Sd/ Jagannadhadas

Sd/ Ch. Chandrasekharaiya

Sd/ Muthulakshmi Reddi

Sd/ M. Venkatesalingam

Sd/ D.V. Gundappa

[*N.B.*—Portions deleted by the Select Committee are enclosed in square brackets and those added are printed in italics.]

Bill to amend the Hindu Law.

(*As amended by the Select Committee.*)

Whereas it is expedient to amend the Hindu Law relating to exclusion [~~from inheritance~~] of certain classes of heirs *from inheritance* [~~and to remove certain defects~~]; It is hereby enacted as follows:—

Short Title.

1. (1) This Act may be called the Hindu Inheritance (Removal of disabilities) Act, 193 ~~8~~.

Extent.

(2) It extends to the whole of Mysore.

Persons not to be excluded from inheritance or rights in joint family property.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of disease, deformity or physical or mental defect.

Saving and exception.

3. Nothing herein contained shall affect any right which has accrued or any liability which has been incurred before the commencement of this Act, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.

WD 1012 (2)—GPB—100—22-12-37

No. 42

Bangalore,
3rd July 1934.

Dear Sir,

I have received your letter of the 1st instant with a note about the necessity for enacting a Regulation in Mysore to amend the provisions of the Hindu Law relating to exclusion from inheritance of certain classes of persons, and have submitted them to the Dewan duly.

The Dewan desires me to thank you for your suggestions and to say that they will be carefully examined.

Yours sincerely,
(Sd) T.S.
Private Secretary to Dewan.

B. Narasinga Rao, Esq.,
Pleader,
Chamarajapuram, Mysore.

Appendix F G—1]

SUBJECT.....

.....

....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193* .

Date of issue 27/11/31

Signed by for C. S. Jry

List of enclosures.....

Copied by WVR/11

Examined by.....

Section

File No.

Serial No.

No. L 3467 Leg 1/2

To

The Registrar,
High Court of Kandy

Sir,

I am directed to forward herewith a note received from Mr. D. Navaratna Rao Master, Chairman of Panwila suggesting that the rules of Hindu Law regarding the exclusion of certain persons from inheritance should be amended on the lines of the Doctrine Act, XII of 1928, and to say

that the Court may
be ... as furnished
the Opinion of the High
Court in the matter
hereof

Yr General &c
27/11/25

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA O. MYSORE

General and Revenue Secretariat

Dated, Bangalore, 27th November 1935.

No. P 3467
Encl note

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Registrar,
High Court of Mysore,
Bangalore.

Sir,

I am directed to forward herewith a note received from Mr.B. Narasinga Rao, Pleader, Chamarajapuram, Mysore, suggesting that the rules of Hindu Law regarding the exclusion of certain persons from inheritance should be amended on the lines of the British Indian Act, XII of 1928, and to request that the Government may kindly be furnished the opinion of the High Court in the matter.

I have the honour to be,
Sir,
Your most obedient servant,

For General Secretary to Government.

613/35

R. O. C. No. 172
D. Dis. 35-36

Mr. Gue
mint original
work (1-3)

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 12th December *1935.*

FROM

A. Sundararaja Rao, Esq., B.A., B.L.,
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

To

GENERAL SECRETARIAT
14 DEC. 1935

M. Venkatesa Iyengar, Esq., M.A.,
General Secretary to the Government of Mysore,
Bangalore.

SIR,

I am directed to acknowledge the receipt of your letter No.P.3467 dated 27th November 1935 forwarding a note received from Mr. B. Narasinga Rao, Pleader, Chamarajapuram, Mysore, suggesting the amendment of the rules of Hindu Law on the lines of the British Indian Act XII of 1928, and requesting the opinion of the High Court in the matter. In reply, I am to forward copies of the minutes of the Puisne Judges of the High Court and to state that the Chief Justice has no remarks to add.

I have the honour t
Sir,
Your most obedient servant,

Registrar.

Copies of the Minutes of the Judges of the High Court.

Mr. Justice K. Shankaranarayana Rao:-

I am of opinion that the suggestion of Mr. B. Narasinga Rao may be adopted for more reasons than one. In the first place we should, as far as possible, bring the law in force here into line with that in British India unless the conditions here do not warrant or justify a change and in this respect the conditions here are similar. In the second place the grounds of exclusion, recognized in the olden days, do not hold good under the present conditions or state of society. There is nothing in the law of the land to prevent persons of the kind referred to in Act XII of 1928 of British India (except of course a lunatic or idiot by birth) from marrying and having progeny and there appears to be no valid justifiable reason why they should be excluded from inheritance.

Mr. Justice A.S.R. Chari:-

I think the legislation proposed on the lines of the British Indian Act 12 of 1928 is not only desirable but necessary to remove another inequality existing under the Hindu Law as at present administered.

Mr. Justice N.K. Srinivasa Rao:-

I agree, as conditions have changed since the times of the Smritis. The rule appears to have been framed more in the interests of the helpless

coparceners than otherwise at a time when labour w
scarce and land was easily available. Condition:
have changed now.

Registrar.

MRM

A note suggesting the enactment of a regulation in Mysore to amend the Hindu law relating to exclusion from inheritances of certain classes.

The Hindu law provisions with regard to the subject of " Exclusion from Inheritance " require modification by a Legislative enactment in our state. Manu, who is the highest authority on Hindu law has no doubt ordained " Eunuchs and Outcastes, persons born blind or deaf, madmen, idiots, the dumb and Nirindry are excluded from a share of the heritage. All other commentators since Manu have almost accepted laws of Manu with slight modifications here and there. The chief reason for excluding these persons is said to be that they are incapable of performing Vedic rights and injunctions. A large section of Hindus do not know Vedas and do not perform the vedic ceremonies as ordained in Vedas. As such this reason cannot be invoked in support of the rule of Exclusion. The archaic injunctions contained in Hindu law have become almost obsolete in most of the cases owing to change of time and circumstances. But the rules regarding exclusion from inheritance were considered a good law till recently in British India. In a case reported in I.L.R. 43 Madras. 4, the High court declined to give effect to the rule disqualifying a conginitally blind man from inheriting. In his learned and exhaustive judgment, Mr Justice Sadasiva Iyer has reviewed the whole law of Disqualification to inherit and upheld the right of the blind man. This decision was subsequently overruled by a full bench of the Madras High court (vide 45 Madras page 949). By that time the late Mr. Seshagiri Iyer, an eminent lawyer in Hindu law had already introduced a bill in the Legislative assembly to alter these archaic provisions contained of Hindu law. The learned judges of the F.B. have observed as follows at page 976 " that the rule of Hindu law about the succession of a congenitally blind person cannot

cannot be considered as obsolete in any other sense than that of being repugnant to more modern and more enlightened ideas than those which prevailed at the time of Smritis and the commentators It can ofcourse be repealed by the legislature and we are informe that a bill to that effect is now before the legislative assembly the author of which was once a judge of this court. But until that step is taken and the proposal passes into law, I feel constrained to say that the courts of this country have no option but to enforce the rule with whatever reluctance and with whatever consciousness of its repugnance to the present sentiment of the Hindu people".

The bill which was pending before the Indian Legislative assembly was finally passed as Act 12 of 1928 and is known as " Hindu Inheritance (Removal of Disabilities) Act ". According to this regulation it is enacted that " Notwithstanding any rule of Hindu law or custom to the contrary, no person governed by the Hindu law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint-family property by reason only of any disease, deformity or physical or mental defect ". The reason that has induced the legislature to exclude lunatics or idiots is that they are unable to take care of the property.

In Mysore in a case reported in 22 Mysore Chief Court Reports page 256, Mr Justice Chandrasekhara Iyer expressed a doubt whether the courts could " at this stage of advancement of society be expected to give effect to a rule of exclusion based on the mere absence or deprivation of an organ of action not essential to intelligent existence ". Mr Justice Parama Siva Iyer says that " the true test of disqualification is utter helplessness and incapacity to take care of his own person and property ". The point was however left undecided as the court held in that case that the defect was not of such a nature as to bring it within the scope of the rule.

The state in Mysore, has shown its readiness to alter

alter the Hindu law if the changed conditions should require it. As such there can be no justification for giving room for doubt regarding the applicability of a rule of Hindu law about the unsuitability and injustice of which modern opinion is practically unanimous.

I therefore venture to think that the Government of Mysore should enact, at the earliest possible opportunity, a regulation on the lines of Act 12 of 1928 of the Government of India.

Bhavanagar

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P2674-6. *Dated, Bangalore,* 23rd Novr. 1937.

Official Memorandum.

A meeting of the Select Committee appointed to consider the Bill to amend the Hindu Law will be held in the Chambers of the First Member of Council, Public Offices Buildings, Bangalore, at 2 P.M. on Saturday the 4th December 1937.

By Order,

22.11

Secretary to the Committee

3333/P

13

DHARMAPRAVARTHA
M. L. NAGAPPA SETTY, M. R. A.
COFFEE & RUBBER PLANTER,
MANAGING MEMBER,
M. LACHIA SETTY & SONS.

CODES USED.
A. B. C. 5TH EDITION
UNIVERSAL TRADE CODE
BENTLEY'S COMPLETE PHRASE CODE.
PRIVATE.

CHIKMAGALUR.
MYSORE STATE.
S. INDIA.

1st December 1937.

N. Sundararaja Rau, Esq.,
The Law Secretary,
Government of Mysore General & Revenu
Secretariet, BANGALORE.

Dear Sir,

I am in receipt of your officeial memorandum No. P.2671-6. dated 23.11.37, asking me to be present at the meeting of the Select Committee to consider the bill to amend the Hindu Law to be held at 2.P.M. on Saturday the 4th December in the Chambers of the First Member of Council, Bangalore, I have to inform youthat I will make it convenient to attend the meeting. Please send me the agenda with a copy of the amended Bill.(Hindu Law).

Yours Sincerely,

M. L. Nagappa Setty

Tomorrow is the meeting. A copy of the Bill must, if approved, be handed to him when he comes here tomorrow.

M. L. Nagappasetty. M. L. C

From

MYSORE LACHIA SETTY & SONS.
"GIRI COFFEE WORKS."
CHIKMAGALUR.

BRANCH: MANGALORE.

AMS:
CHIKMAGALUR.

ಮೈ ಸನ್ಸ್, ಚಿಕ್ಕಮಗಳೂರು.

CHIKMAGALUR. 13.12. 1893

14 3:30 P

To

A. Sundararajeeras Esq^r
Secretary Mysore Legislative Council
Bangalore

Further to my letter dated the 18th Inst I am sorry to inform you that I am laid up with Influenza so that I am unable to attend the meeting tomorrow & the succeeding Sunday & request you to express the regret at the meeting

Yours Sincerely
M. L. Nagappasetty

Am 16.12

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Order No. P463/Legis 20-37-1

Bangalore Dated, Bangalore, 9.2.1938

---

dered that the accompanying Act to amend The Hindu Law

which received the assent of His Highness the Maharaja, on the third day of February 1938, be published as ~~Regulation~~ Act No. V of 1938, in the *Mysore Gazette* for general information.

General *Secretary to Government*
~~Local and Legislative Departments~~

9.2.38

To

The Compiler, *Mysore Gazette*, for publication in Part ~~III~~ IV of the Gazette, in English and Kannada and for supply of — spare copies in English and — Kannada ~~to this office,~~ as per standing orders.

Copy to the Translator to the Government

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

~~XXXX~~
Read:-

ORDER NO. P4631 Legs 20-37-1/Revenue

Dated, Bangalore 9th February 1938.

lered that the accompanying Act to amend the Hindu Law which received the assent of His Highness the Maharaja, on the third day of February 1938, be published as Act No.V. of 1938 in the Mysore Gazette for general information.

hdq 9.2

For General Secretary to Government.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of ---- spare copies in English and Kannada as per standing orders.

Order No. P. 4631—*Legis:* 20-37-1, *dated Bangalore, the 9th February* 1938.

Ordered that the accompanying Act to amend the Hindu Law which received the assent of His Highness the Maharaja, on the third day of February 1938, be published as Act No. V of 1938 in the *Mysore Gazette*, for general information.

M. VENKATESA IYENGAR,
Secretary to Government,
General Department.

ACT V OF 1938.

(*Received the assent of His Highness the Maharaja on the third day of February* 1938.)

An Act to Amend the Hindu Law.

Whereas it is expedient to amend the Hindu Law relating to exclusion of certain classes of heirs from inheritance; It is hereby enacted as follows:—

Short Title

1. (1) This Act may be called the Hindu Inheritance (Removal of Disabilities) Act, 1938.

Extent.

(2) It extends to the whole of Mysore.

Persons not to be excluded from inheritance or rights in joint family property.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of disease, deformity or physical or mental defect.

Saving and exception.

3. Nothing herein contained shall affect any right which has accrued or any liability which has been incurred before the commencement of this Act, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.

MIRZA M. ISMAIL,
Dewan.